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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CAMBRIDGE UNIVERSITY PRESS, et al.,	)	
Plaintiffs,	)	
vs.	)	Civil Action File No. 1:08-CV-1425-ODE
MARK P. BECKER, in his official capacity as Georgia State University President, et al.,	)	
Defendants.	)	

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Videotaped deposition of MARJORIE DENISE DIMSDALE, taken on behalf of the plaintiffs, pursuant to the stipulations contained herein, before Teresa Bishop, RPR, RMR, CCR No. B-307, at 44 Courtland Street, 2nd floor, Atlanta, Georgia, on Wednesday, May 13, 2009, commencing at the hour of 8:54 a.m.

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ALSO PRESENT:

KENNITH DRAKE, VIDEOGRAPHER

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THE VIDEOGRAPHER: This will be the videotaped deposition of Denise Dimsdale taken by the plaintiffs in the matter of Cambridge University Press et. al., versus Mark P. Becker in his official capacity as Georgia State University president et. al.

The date is May 13th, 2009. We are on the record at 9:01:23.

DENISE DIMSDALE,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. SINGER:

Q. Could you please state your name and address for the record?

A. Denise Dimsdale. 2964 Hollywood Drive, Decatur, Georgia 30033.

Q. Thank you. Ms. Dimsdale, we met off the record. My name is Randi Singer. I'm a partner in the law firm of Weil, Gotshal & Manges and we're representing the plaintiffs in this action.

Have you ever been deposed before?

A. No.

Q. Lucky you. Couple of ground rules. I'll be asking the questions. You need to answer verbally

because the court reporter can't take down nods. Okay?
A. Okay.
Q. Let me know if you don't understand a question and I can certainly rephrase it. And if you need a break at any time, just let me know, we can certainly take one so long as there's not a question actually pending. Okay?
A. Okay.
Q. What did you do to prepare for today's deposition?
A. I met with the King & Spalding attorneys.
Q. Who did you meet with at King & Spalding?
A. She's sitting right here.
Q. Ms. Gary?
A. Yes.
Q. And that was yesterday?
A. Yes.
Q. How long did you meet with them for?
A. I don't know.
Q. Approximately?
A. Maybe two hours.
Q. Did you talk to anyone else about this deposition other than counsel?
A. Not really.
Q. Did you talk with Ms. Burtle about her

deposition?

A. It was mentioned, but we didn't really discuss what was going on.

Q. Did you read the transcript from Ms. Burtle's deposition?

A. No.

Q. Did you talk with Dean Seamans' about her deposition?

A. It was mentioned, but we didn't discuss what happened there or anything.

Q. So you haven't read Ms. Seamans' transcript, either?

A. No.

Q. Was anyone else present at your meeting yesterday with Ms. Gary?

A. Yes. I forgot his name. Cynthia was there for a few minutes but she stepped out, and then her colleague was there, Ms. Gary's colleague.

MS. GARY: I'll represent that was Steve Schaetzel from King & Spalding.

MS. SINGER: Thank you.

BY MS. SINGER:

Q. In connection with this litigation, did anyone ask you to search your files or your e-mail to produce documents?

A. Yes.
Q. When was that?
A. I don't remember.
Q. Was it within the last six months?
A. I believe so, yes.
Q. Was it within the last month or two?
A. I don't remember.
Q. What were you asked to look for?
A. We had a list of things, I don't remember what was on the list.
Q. And you searched your files and your e-mail in connection with that request?
A. Yes.
Q. And you produced whatever you had to King & Spalding or whoever you were asked to produce the documents to?
A. Yes.
Q. What kind of e-mail system do you have?
A. It's called GroupWise.
Q. Does your e-mail get automatically deleted after a certain point in time?
A. I don't know.
Q. How far back do you have e-mails going?
A. I don't know. I don't usually keep my e-mails, but --

Q. So your normal practice is to delete an e-mail after you've dealt with it?
A. Yes.
Q. Did counsel in this case ever instruct you to stop that practice and keep your e-mails while this litigation was pending?
A. Yes.
Q. And have you done so?
A. Yes.
Q. Ms. Dimsdale, could you briefly describe for me your educational background?
A. I went to Georgia State University, got my bachelor's and my master's, and I'm currently enrolled at Valdosta State University.
Q. When did you graduate with your bachelor's from GSU?
A. I believe it was '96.
Q. How about your master's?
A. I think that was 2002.
Q. What is your master's degree in?
A. Vocal performance.
Q. I'm sorry, Valdosta?
A. Valdosta.
Q. My Yankee roots, I'm sorry.
What are you studying at Valdosta?

A. Library science.
Q. When are you scheduled to graduate or get your degree from there?
A. Hope to get it next May.
Q. So May 2010?
A. Yes.
Q. Do you have any training in copyright law?
A. Cynthia gave a class that I attended some time ago.
Q. Would that have been within the last three months?
A. I don't remember.
Q. Would it have been within the last six months do you think?
A. I don't remember that either.
Q. Was it since this lawsuit began?
A. Possibly.
Q. Who else attended the class that Cynthia gave?
A. I don't remember who was there.
Q. Was it colleagues from the library?
A. I don't know if it was just library wide or if it included more people. I don't remember.
Q. Do you remember how many people were there?
A. No.
Q. Was it in a really big room or a really small

room?

A. It was -- room was smaller than this one. It's in the library.

Q. Was it a room that was set up like a classroom or a room that was set up with a conference table?

A. Conference table.

Q. Do you know how many people that room fits, if it's a room in the library?

A. No.

Q. How long was the class? How long did it last?

A. I don't remember.

Q. Were there any handouts from the class?

A. Not that I remember.

Q. Did Ms. Hall use a PowerPoint?

A. No.

Q. Other than -- strike that.

Did the class last more than two or three hours do you think?

A. No.

Q. Other than this class by Ms. Hall that lasted not more than two or three hours, have you had any other training in copyright?

A. Not really. It's been mentioned some in my studies, but not much. And I haven't taken an actual class in copyright.

Q. When you said it's been mentioned some in your studies, what do you mean by that?
A. Just in -- they haven't talked about it very much, but in my foundations class it was brought up. That's the only class I remember anyone mentioning it, anything about it.
Q. And that was foundations of what?
A. Library information science.
Q. Here at GSU?
A. Valdosta State.
Q. Valdosta State.
When did you begin your studies at Valdosta State?
A. It would be spring of '08. Yeah.
Q. Could you give me a brief history of your employment?
A. I've been in my current position for about 10 years. And before that I worked for -- I was a library assistant for -- I can't remember how long I was a library assistant, but I'm thinking it was about three years.
Q. Was that here at Georgia State?
A. Yes.
Q. Prior to being a library assistant at Georgia State, were you employed?

A. Yes. I worked for Schleger Pipe Organ Company.
Q. Doing what?
A. Secretary.
Q. And what did that company do?
A. They built and maintained pipe organs.
The 10 years I mentioned before, actually it's the whole time I've been a staff member at Georgia State University, which would include the student assistantship. I mean the library assistant.
Q. Thank you for clarifying that. So that would mean --
A. So I think I'm probably -- actually now I'm considered a library associate and so I don't remember exactly when I went from assistant to associate.
Q. When did you start at Georgia State working -- I'm sorry. When did you start working at Georgia State?
A. That would be about 10 years ago.
Q. Approximately 1999?
A. Yes.
Q. Were you employed between graduating in 1996 and coming to the library in 1999? That was the secretarial position?
A. Yes.
Q. Okay. Other than the assistant ship that you

started with here and your current position, have you held any other titles while working in the library at GSU?

A. Before I was a secretary I was a student assistant.

Q. Is that counted in the 10 year period?

A. No.

Q. When did you become a student assistant?

A. I did that for approximately three years. So I guess that would be '93ish.

Q. While you were an undergrad?

A. Yes.

Q. What is your current title?

A. Library media and reserves coordinator. I think HR says library associate something or another. But the wording on -- like if I sign anything it will say library media and reserves coordinator.

Q. Who do you report to?

A. Denita Hampton.

Q. And Ms. Hampton reports to Ms. Burtle?

A. Yes.

Q. Does anyone report to you?

A. Yes.

Q. Who reports to you?

A. Cory Schlotzhauer.

Q. What's his title?

A. Library assistant. There's a number that goes with that. I think it's library assistant 2, but I'm not sure. He does print reserves. So sometimes it will say print reserves as part of his title.

Q. Does anyone besides Corey report to you?

A. Yes.

Q. Who else?

A. Malia Cargile.

Q. What's Malia title?

A. Also library assistant 2 I think. She's does the digital reserves.

Q. What's the significance of the 2 in library assistant 2?

A. I don't know. I think they have a 1, 2 and 3. And I'm pretty sure all of our library assistants that's under me are library assistant 2s. It has to do with their job duties and how it ranks out.

Q. Anybody else report to you besides Malia and Corey?

A. Yes. Doug Walker.

Q. What's Doug's title?

A. He does the media reserves. His title is officially library assistant 2 I think.

Q. Anyone else?

A. We have a student assistant, Kelly Thomas.
Q. Is Kelly an undergrad?
A. Yes.
Q. Anyone else?
A. That's it.
Q. Who in the library has any responsibility for the EReserve system?
A. It's officially Malia's duty. I do a lot of it because it's more than a one person job. The other, Corey or Doug could do something if we needed them to.
Q. Am I correct in concluding that it's not generally part of Corey or Doug's current job description?
A. Correct.
Q. Does Kelly Thomas help out at all with that?
A. She does the scanning.
Q. Is there anybody else at the library who has any responsibility or any involvement in EReserves?
A. The -- I mean all of access and media services at some point could potentially do something. There are people at the front desk who accept the submissions when the teachers bring them in. Doesn't mean that they'll actually get posted, but that's sometimes how they get to us.
Q. How is the front desk staffed at the library?

A. How do you mean?

Q. You just said that somebody else may be sitting at the front desk and may accept the submission. Who would that be?

A. Anyone who works in access and media services.

Q. Would that include undergrads?

A. It could.

Q. Do you know Malia's educational background?

A. No.

Q. Do you know whether she has a college degree?

A. No. Well, she at least has a bachelor's. She's in the MLIS program. I don't know how far along she is.

Q. The MLIS program is?

A. At Valdosta State.

Q. That's the library program you are in?

A. Yes.

Q. Who is Shelby Failing, F-A-I-L-L-I-N-G?

A. She works in access and media services.

Q. What are her job responsibilities?

A. I don't know all of them. She does make the desk schedule.

Q. Do you ever sit at the desk?

A. Yes.

Q. How often do you sit at the desk?

A. It varies. I think I'm scheduled probably approximately 10 hours or so a week.

Q. What does sitting at the desk entail?

A. It's assisting patrons in a variety of ways. Checking out books, whatever customer service needs they might have.

Q. And that might include accepting submissions from faculty or professors for EReserves?

A. Yes, as far as taking them and putting them in a box that says they need to be processed is basically what that is.

Q. So if a professor brings something, an EReserve submission to the front desk, what does the front desk person do with it?

A. They might have a short conversation with the instructor or the person submitting the reserve item. Hopefully they'll make sure that we have the information that we need if we need to contact them. And just put it in the box saying that it needs to be processed. Or give it to one of the reserve staff or if the instructor needs more information, then they'll refer them to reserve staff.

Q. When you say reserve staff, who are you including in that?

A. Anyone in my unit. If it's digital it should go to Malia, if it's print it should go to Corey, if it's media items it should go to Doug.

Q. What do you mean by media, just so I'm --

A. Video and audio CDs, the physical items.

Q. So except when the media person is helping you out he -- he wouldn't do books or articles as a general matter?

A. Correct. Right.

Q. I think you mentioned that the short conversation might include -- I don't want to characterize this, so correct me if I'm wrong, making sure you have the contact information?

A. Yes. Hopefully they're doing that. Usually we get it.

Q. And then they would actually put the physical request in a box?

A. Yes. If it fits, or give it to someone. But we do have an actual wooden box labeled for the reserve submissions to go into.

Q. And I think you also said that you would make sure the form was filled out completely?

A. If the actual -- do you mean -- do you mean currently or do you mean the old procedures?

Q. Well, let's start with -- I think we're going to have this problem all day. Let's start with as we sit here today.

A. As we sit here today if they're submitting something that needs to be digitized or go up in an electronic format, then they have to submit an online form. And so that form comes to a reserves e-mail. The actual desk workers are not going to be checking for that because they don't have access to that e-mail. But the reserves staff will check for it and make sure we have it before we post the material.

Q. Who has access to that reserves e-mail address?

A. Everyone in the reserves unit or my little unit of me and Malia, Doug, Corey. Kelly does not. There may be some other people, but I don't know who they are. It would make -- well, I don't know.

Q. How do you guys check that e-mail? Is one of you responsible or --

A. We all have access to it and we all check it.

Q. Do you all check it every day?

A. I check it every day. We should all be checking it every day, yes.

Q. And how do you decide who deals with each request that comes in to that e-mail address?

A. The request, if it says print beside it, it will tell us print and so Corey would handle those.

Doug's will say something that indicates media. I can't remember the exact wording beside it. Sometimes it says mixed and then we will have to look at that because it's a mixed request. And it will say electronic I believe is the wording for the electronic request. But it is indicated.

Q. Do you know how that indication gets there?

A. It's part of the electronic form.

Q. Just so I understand you, so that indication is something that the computer automatically puts on based on the form?

A. Well, when you're filling out -- when the instructor is filling out the form they would select what type of material they're submitting, and that selection makes the software indicate what type of material it is.

Q. Do you have any responsibility for ULearn?

A. No.

Q. Do you have any responsibility for faculty web pages?

A. No.

Q. Any responsibility for course web pages? Not --

A. Only EReserve. I don't -- if it's an EReserve course page we do that. But we don't do other types of course pages.

Q. So if a professor wanted to set up a course page outside of the EReserve system you wouldn't have any responsibility for that?

A. Correct.

Q. Do you have responsibility for any systems besides EReserve?

A. Can you rephrase the question?

Q. Sure. When we talk about Malia being responsible for digital reserves, is that solely the EReserve server?

A. Yes. Well, ERes has its own server, which is what we use for ERes. ULearn uses the Hollywood server. If -- if we were to do any audio streaming it would be on the Hollywood server.

Q. The Hollywood server isn't part of the library server?

A. I don't really know how that works.

Q. To the best of your knowledge, the ERes server is controlled by the library?

A. I don't think so. I don't know.

Q. Who has access to the ERes server? Who has the password that can go in and make changes?

A. I don't know how the server itself works. As part of scanning we have a password to get into the server to put the scanning materials on to the server. But how the server itself works, its maintenance and all that I don't know about.

Q. Who has that password to put the scanning or the scanned materials on to the ERes system?

A. I'm not sure who all has it. Malia and I have it, Kelly has probably had it. I don't know if Corey or Doug actually has the password or not.

Q. I think you mentioned a little while ago you spend about 10 hours a week manning the desk. What else do you do? What else does your job description do?

A. I take care of the media center. There's media equipment out there and videos and CDs, other media formats. We have some laptops and I make sure that they get taken care of, if there's any problems with them. Managing the work flow of the circulation desk and the reserves unit, the media center in general. And work with the liaison librarian somewhat in making sure that if materials need to be purchased that they have the information that they need to consider that purchase.

There might be more. That's what I can think of at the moment.

Q. When you say liaison librarian, what do you mean by that?

A. The library has librarians that are subject specialists that work with departments in the unit as a kind of go between with them and the library to make sure that we have materials that meet their needs.

MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 123.

(Plaintiffs' Exhibit No. 123 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you have in front of you a document bearing the Bates stamp Georgia State 343. It's been marked as Plaintiffs' Exhibit 123. Do you recognize this document? Take your time.

A. I don't recognize it specifically, but it appears to be the job description for me.

Q. Is there anything on Plaintiffs' Exhibit 123 that does not fit within your job description as you know it?

A. I don't have two to three student assistants. At some point I probably have. I do work with liaison librarians. I don't think I -- I don't remember ever developing a bibliography or -- other than ERes, I don't remember having done much web based media resources. I'm not sure what that means. I think the rest of it is something that I would do or might do.

MS. SINGER: Would you please mark as Plaintiffs' Exhibit 124.

(Plaintiffs' Exhibit No. 124 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you have in front of you a document bearing Bates stamp Georgia State S341 which has been marked as Plaintiffs' Exhibit 124. Do you recognize this document?

A. Not specifically.

Q. Do you have a general understanding of what Plaintiffs' 124 is?

A. I think so, yes.

Q. What's Plaintiffs' Exhibit 124?

A. It's a position description of the library assistant 2 digital reserve supervisor.

Q. Who currently holds that position?

A. Malia Cargile.

Q. Does Plaintiffs' Exhibit 124 more or less describe Malia's position as you understand it?

A. Let's see. Well, we do not providing training to instructors printing their own course pages using ERes.

Q. Okay.

A. And above that we do not have five student assistants. We no longer coordinate with IS&T in scanning documents. It might have been over here as well. Yes, it was in mine as well. That would be something we used to do but no longer do.

Do you want to know -- do you want to know if this is current or this is the old way of doing things?

Q. Whatever you can tell me about the document.

A. Currently and in the past we searched for electronic documents in our databases. I don't know how they're defining Galileo if that's all of our databases or not. I think they call it that sometimes, but I don't know what all of that entails.

In the past we converted materials that we found in our electronic databases, articles and what not to PDF and uploaded them. Currently we are not doing that, we're linking to those articles. We might search for complete citations, but currently the form that teachers are required to fill out requires those fields, so hopefully we won't have to search for them.

We do not determine copyright compliance. We do check the material to see if it meets guidelines for Georgia State and see if it -- if some red flags show up then we would address it. I don't think Malia has done any audio files so I don't know if that should be in her job description or not. I think that's all I see at the moment that might not be what we do.

Q. Sure.

A. Or that this person might not do.

Q. Do you see at the bottom of Plaintiffs' 124, the last line says revise 2/24/04 DD?

A. Yes.

Q. Do you know what DD stands for?

A. It's likely my initials.

Q. So you would have been involved in putting together or finalizing or somehow involved with creating this job description?

A. Yes.

Q. You said that you and Malia no longer coordinate with IS&T, is that correct?

A. We no longer coordinate scanning with them because we do our own scanning now.

Q. How long have you been doing your own scanning?

A. It's fairly recent. I don't remember.

Q. Did the changeover occur during the spring 2009 semester?

A. I think that we started in December, but I'm not sure.

Q. Approximately December '08?
A. Yes.
Q. Did you mean anything else when we discussed how you no longer coordinate with IS&T?
A. I ask Jim Palmour technical questions.
Q. What kind of technical questions?
A. About ERes, if there's a problem with the software or the server I would ask Jim.
Q. Anything else?
A. Not that I can think of at the moment.
Q. What is Galileo?
A. I'm not sure what that entails.
Q. Do you have a general sense of what Galileo refers to?
A. In general I think they're referring to the library databases.
Q. What does library databases encompass?
A. It's a lot of databases with electronic resources in them. I'm not sure if the Galileo catalogue is part of that, which is our library catalogue. I think Galileo is referring to the actual databases with the electronic resources in them.
Q. What sort of electronic resources are in those databases?
A. Sometimes there's full text of articles or

abstracts. There could be books, electronic books.

Q. Do you know whether the library holds licenses for these databases?

A. It's my understanding that if the electronic database is available that we do hold a license for it, if it needs one, which I think they do.

Q. Do you have any involvement in choosing which databases --

A. No.

Q. Who would have that?

A. I don't know.

Q. Do you have an estimate for how many databases are included, is it more than 10?

A. Yes.

Q. Is it more than a hundred?

A. I don't know.

Q. In the 10 years that you've worked at the GSU library, what are the different methods that have been available for distributing course reading material through the library?

A. Through the library -- we have the print, the books and the media, the ERes that we have now. At some point in time there were photocopies but ERes, when we started ERes we stopped doing any kind of photocopied material that I can think of. I mean, there used to be instead of using ERes the thing that they used to do is have photocopied material in a folder, but we no longer do that.

Q. Was that photocopied material something that students would come in and borrow or was it distributed to them?

A. They could check it out.

Q. Do you have any involvement with coursepacks?

A. No.

Q. Have you ever had any involvement with coursepacks?

A. No.

Q. Approximately when did GSU start using ERes?

A. I think it was approximately 2004.

Q. Were you involved with ERes when it launched in approximately 2004?

A. Yes.

Q. Have you been involved consistently with ERes the whole time it's been at Georgia State?

A. Yes.

Q. Is the system the same, the hardware and the software the same as when you first started ERes in 2004, putting aside upgrades?

A. Oh, as far as I know.

Q. Do you know what the commercial software is that ERes is based on?

A. The company is called Docutek, if that's what you mean.

Q. And it's consistently been Docutek software since 2004?

A. As far as I know.

Q. What was your role in ERes when it first was launched in approximately 2004?

A. To manage it, the same as I am now.

Q. Did you have library assistants who reported to you who were also involved with ERes at that time?

A. I don't remember us using library assistants. It's possible that we did, but I don't remember us using them for ERes before we did scanning. We might have used them to pull books or something.

Q. Do you know why GSU decided to institute the ERes system in 2004?

A. They wanted to use the technology that was available to offer the same service I think -- same service that we were offering before but it's just using the technology to make it better for everyone is the goal.

Q. Do you believe that the ERes system has met that goal?

A. I think so.

MS. SINGER: Why don't we take a short break before we get into the next topic. We're not going to hit a stopping point for a while after this.

THE VIDEOGRAPHER: Off the record at 9:53:15.

(Brief recess.)

THE VIDEOGRAPHER: This is tape 2. We're back on the record at 10:03:59.

BY MS. SINGER:

Q. Ms. Dimsdale, could you tell me how ERes currently works?

A. Could you be more specific?

Q. Sure. I'm a professor and I want to post something on the EReserve system. How do I go about doing that?

A. The current procedure would involve you -- if you want -- what kind of material do you want to post?

Q. I want to post five chapters from a book.

A. You would have to fill out the online submission form. There's a lot of required fields in there. We would receive that via the reserves e-mail. Five chapters seems like a lot, so that would probably raise a red flag in which case I would likely contact legal affairs to discuss it with them. Hopefully typically you will not ask for five chapters. And once we receive the request if the instructor owns the material they can -- they could bring it to us at any time, we just can't post it until we get the request online.

If the library owns it, then we could pull it from the shelves for them, scan it if necessary, sometimes our databases will just link rather than scan. Create a course page or add it to a course page if there's already one there. If it has copyrighted material on it, we'll put a password on the page. The page will have an expiration date.

Do you have any other questions?

Q. Unfortunately yes, I have a whole bunch more.

A. I thought we were -- okay.

Q. When you say it has an expiration date, what do you mean by that?

A. There's an end visibility date for the page. We manually put that into each page with copyrighted material on it for the semester. It can be on the -- typically it's on the page itself and the whole page expires at the end of the semester.

Q. What does it mean to expire?

A. I meant archive, expire. It makes it so it's no longer visible. You have to be an administrator to see it.

Q. Who counts as an administrator to be able to see expired pages?

A. Reserves staff, if we've created an administrator account for someone else they might -- they would also have the ability to see it.

Q. And just so I'm clear, reserve staff we're talking again about you and Malia and Doug and Corey?

A. Yes.

Q. Anyone else?

A. That's the reserve staff. There's other people who have some -- I mean, I'm not sure who all has an administrator right, but there are some other people who do.

Q. Would those other people generally be in the nature of student assistants?

A. No.

Q. Would they be more in the nature of Laura Burtle?

A. Yes, I think she probably has one.

Q. How about somebody like Jim Palmour, a technical person?

A. Yes, he has as well.

Q. Are you aware of any other categories of people who would have access?

A. The law library uses ERes.
Q. Anyone else?
A. That's all I can think of at the moment.
Q. When you say the law library uses ERes, do you have any involvement in that?
A. No.
Q. How does the law library's ERes system work?
A. I don't know.
Q. Do they use the same ERes system?
A. It's the same software, yes.
Q. Do you know if it lives on the same server?
A. I think it does.
Q. Do you know if the law library's use of ERes is subject to the same policies as your library?
A. I don't know their policies.
Q. Who would know that?
A. I don't know.
Q. Do you ever talk to anybody at the law library ERes system?
A. I don't talk to them so much about what they're doing, but I warn them if I'm about to do something that would affect them, such as send out a mass e-mail or something or if I were to post a deadline announcement on the front page, I would likely warn them that I'm going to do something.

Q. Are expired pages still in existence? I know they're no longer visible, but do they exist somewhere?
A. Yes.
Q. Where do expired pages exist?
A. I don't know.
Q. Do you -- do you ever renew expired pages?
A. Do you mean currently or in the past?
Q. Let's start with currently.
A. Currently we don't renew them per se because you have to request what you need if you're an instructor. And I don't think that counts as a renewal. You have to ask for it every time, specifically every item.
Q. Are you -- I don't want to put words in your mouth, but are you basically saying that -- well, strike that.
In the past did you renew pages?
A. Yes.
Q. When did that policy change?
A. It changed with the -- at the same time as the Board Of Regents came out with their new policy. I don't remember the specific time for that.
Q. Would that have been sometime during the spring 2009 semester?
A. Yes.

Q. We're currently in the Maymester for 2009, is that right?

A. Yes.

Q. If a professor taught a course Maymester '08 and they were teaching the same course Maymester '09 and they wanted the same page with the same items, how would they go about getting it?

A. They would have to submit the online request form, if it was electronic. If they had books on reserve they have the option to use the paper form or the online form.

Q. If they have electronic items, they would have to submit an online form for each item?

A. Yes. You can submit more than one item via the form, but each item would have to be listed.

Q. Each item would have to be on some form somewhere?

A. Correct.

Q. Are you rescanning all of the electronic items?

A. No.

Q. So how are you going about getting -- if an item was scanned for Maymester '08 and the professor specifically asks for it for Maymester '09, how do you go about making it available?

A. The pages are -- we're in the process of deleting items from spring '09 from the pages themselves. We're not finished with that yet. So that's in addition to archiving a page. If you delete the item from the page it's still available in the system. I don't know how the server works, but you can do a search for the item if you need to, and if we can't find it we can scan it.

Q. Am I understanding you then that -- strike that.

How are the files stored on the system?

A. I don't know.

Q. Are they PDFs?

A. There's a variety of formats. PDF is one of them.

Q. What other formats are there?

A. It could be a link, it could be a reference to a physical item. It could be a word document. There may be other formats.

Q. If you scanned it it would most likely be a PDF, right?

A. Correct.

Q. Do those, the PDFs of the scanned items, exist somewhere on the system other than specifically on the course page?

A. I don't understand how the server works. It's on there somewhere. As far as the ERes system goes, I don't know how the software and the server -- when I look at the server, I don't understand how it works so I can't tell you as far as the software what it's doing. There's also a computer where we scan the material and so there's some PDFs on that computer.

Q. There's PDFs on the hard drive of that computer?

A. Yes.

Q. Are all of the PDFs from ERes on the hard drive of that computer?

A. Not likely all of them.

Q. Would all the PDFs since the library started doing the scanning be on that computer?

A. Probably not all of them.

Q. So when you talk about deleting items from a page, how -- what does the page look like after you've deleted items?

A. Empty. I could delete the page as well. But I left the page there because I think it would be easier to do statistics on it. It's just an empty page.

Q. Does it say what used to be on it at all?

A. No.

Q. Has that always been the policy to delete all the items from the page?

A. No.

Q. When did that change?

A. With the new Board Of Regents policy we began to implement new procedures, and deleting the items from the page is what we're doing for spring and what we may continue to do.

Q. But the actual PDFs exist somewhere on the computer, somewhere in the server?

A. Somewhere. They exist somewhere. I don't -- they should be there somewhere.

Q. Have you had, you personally had to access those to upload files for the Maymester?

A. Yes.

Q. And you were able to do that?

A. Yes.

Q. Prior to -- prior to the policy change if I am a professor and I wanted to post five chapters to my ERes page, how would I go about that?

A. You could -- you had the option of using an online form or you could fill out a paper form. And then again, we would hope that you did not submit five chapters.

Q. Let me show you what has been previously marked as Plaintiffs' Exhibit 19. Do you recognize

Plaintiffs' 19?

A. It looks like an ERes, paper ERes submission form.

Q. Is Plaintiffs' 19 the form currently in use?

A. No.

Q. What would happen if a professor filled out Plaintiffs' Exhibit 19 and submitted it to the library today?

A. We would inform them that they used the wrong form. If it -- if it was just physical books I would consider it. But if it was digital material I would not consider it.

Q. What do you mean by physical books?

A. Like a book you would pull off the shelf which they use as well, like a book you would purchase at the store, pull off the shelf at the library.

Q. What would you consider if it was a physical book?

A. What's your question?

Q. You said if it was a physical book you'd consider it. What did you mean by that?

A. I would consider putting it on reserve like we have two hour, three day or seven day reserves. But really I really think, you know, I would think about it, but I'm thinking about it now and I'm thinking no is probably the best answer.

Q. So if it was a physical book you would put it on print reserve?

A. Correct.

Q. On Plaintiffs' Exhibit 19 in that box kind of in the top half above the line for instructor signature --

A. Yes.

Q. -- prior to -- strike that.

Was Plaintiffs' Exhibit 19 the form that was in use to place things in EReserve for the spring 2009 semester?

A. I don't remember. Let me read this.

It might have been used for part of spring semester. I don't know if this is the exact form, but at least a form similar to this was used for part of spring semester. But our digital form did go into effect at some point during spring semester and we started using that form.

Q. In the beginning of spring semester 2009 when Plaintiffs' Exhibit 19 was the current form, did you collect these forms? Did the library collect these forms somehow?

A. If in fact this was the form that they submitted, if they submitted the form then we used it to process their material, then we would have collected the form.

Q. Was it the library's practice to keep copies of these forms?

A. We have some copies of forms. I don't know that we have every copy of every submission. Most of what we had we would try to organize in some notebooks.

Q. Did the library require instructors to sign Plaintiffs' 19 when it was the current form?

A. The instructor is supposed to sign the form.

Q. Were there ever occasions where the library accepted a form that wasn't signed?

A. It's possible.

Q. On Plaintiffs' 19 above the instructor's signature line there's a line that says for book selections you may place one chapter or less than 20 percent of the content from a book. Do you see that?

A. Yes.

Q. Is that currently the policy at GSU?

A. No.

Q. How is the current policy different?

A. The current policy does not mention a percentage.

Q. While the policy was -- strike that.

Was the policy at one point one chapter or less than 20 percent the content from a book?

A. Could you repeat the question?

Q. Sure. Was there ever a time when the policy for ERes at GSU was one chapter or less than 20 percent of the content from a book?

MS. GARY: Objection as to form.

Characterizing it as policy.

BY MS. SINGER:

Q. You can still answer.

A. I think it was a guideline, but I don't think it was a policy.

Q. Were there -- well, strike that.

How did the guideline work? If it was more than one chapter but still less than 20 percent, would the library have posted the material on ERes?

A. So long as we felt that it still met fair use, then yes, we would.

Q. How did you determine whether it met fair use?

A. The instructor should be thinking about that when they submit their material. Certain things we would not think about -- I mean, we would not post -- if it had ILL stamped all over it, then we would not post that. The materials should also be owned either by the library or the instructor.

Q. Anything else?

A. Do you need to know something else about that?
Q. Well, was there anything else the library would consider as part of its guidelines?
A. There were a list of guidelines. I don't have them memorized.
Q. Understanding that you don't have it memorized, what generally was on that list of guidelines?
A. The things I previously mentioned about the ILL copies or who owns the material. There were also links to copyright information such as the Board Of Regents -- I'm not sure if that was specifically listed under the guidelines, but on the web site which gave you information about ERes there were links to copyright information. And I believe there was also additional copyright information.
Q. ILL is interlibrary loan?
A. Yes.
Q. Was there anything else that you personally would have considered when deciding whether or not to post something to ERes? And by something I mean an excerpt from a book.
A. There might have been something. I can't think of any instances at the moment.
Q. So just to go back to where we were, if a

professor wanted to place two chapters but it was less than 20 percent from a work owned by the library under the old policy, would that have been acceptable?

A. Most likely.

Q. What if it was a book owned by the library, it was one chapter but it was more than 20 percent of the work, would that have been acceptable?

A. If it was one chapter there's a good chance that we didn't check the percentage.

Q. When you were checking percentages, how did you calculate that?

A. 20 percent of the total number of pages of the book.

Q. So you would literally just look at how many pages the book had and figure out what 20 percent of that was?

A. You could do that. You could look it up in WorldCat or something as well.

Q. When you were determining the total pages of the book, did you count thing like the table of contents or footnotes, things like that?

A. I don't remember.

Q. Is it possible that those things were included?

A. It's -- I guess it's possible.

Q. For example, if you were looking it up on the WorldCat, that would just give you the total number of pages probably inclusive of table of contents and educational notes and things like that, right?
A. I don't know what all that includes. The spirit of this 20 percent guideline is just to ensure that they're not posting too much of the material. And so whatever we choose to post should be within that spirit of doing that. And I'm not sure if we're going to count table of contents or not.
Q. How did you determine what was too much?
A. The one chapter or 20 percent guideline is mostly what we went by for determining amount.
Q. Do you know where that one chapter or 20 percent came from?
A. I don't know.
Q. Was that 10 -- I'm sorry, was that one chapter or 20 percent the policy from the beginning of ERes in 2004?
A. I believe so.
Q. Were you involved in helping to set up limits at all on what could be posted on ERes?
A. When we first launched ERes and when we were thinking about what we were going to do, there were a lot of meetings about what we were going to do and I was

in those meetings. And the procedures that came to exist came out of the discussions that occurred in those meetings.

Q. What were the discussions around how much should be able to be included, how much of an excerpt of a book?

A. The -- I don't remember exact discussions from that time. The reason that 20 -- up to 20 percent became part of the guidelines was because it was discussed.

Q. Do you recall how it came up?

A. No.

Q. Do you recall whose idea 20 percent was?

A. No.

Q. Have you ever done any research into why 20 percent?

A. No.

Q. What's your personal understanding of why the 20 percent or one chapter limit was used?

A. My understanding is that it was a guideline that some people used, but I don't know why we particularly chose it.

Q. Do you agree that up to 20 percent or one chapter is not too much?

A. It's possible that it's not too much. I think

there are probably instances where it could be too much.
Q. Did you ever have any conversations about changing that limit?
A. No.
Q. Did you ever think that maybe the limit should be changed?
A. I don't really know about the limit as far as -- as a guideline -- perhaps as a good guideline, I would say it's not a hard and fast rule. As far as discussions I might have had about it, it might have come up at some point but I don't remember what we might have said about it.
Q. Over the course of your employment at the library you have dealt with hundreds of thousands of EReserves items, right?
A. I've dealt with a lot. I don't know how many.
Q. Certainly thousands, right?
A. Yes.
Q. Have you -- and strike that.
In the course of dealing with those thousands of excerpts, were you able to form a sense of whether the 20 percent or one chapter limit was -- or guideline was working in terms of making sure not too much was posted?
A. I think it helped to give a sense of what

might be the right amount. But it's a bit difficult to implement sometimes because it's a lot of page counting. So I think it worked to a degree. But I'm not sure -- I don't think you can just say, oh, this is 20 percent, let's just post 20 percent and we're done.

Q. Why not?

A. Because it may or may not be appropriate for the item. It would depend on the situation.

Q. What would it depend on?

A. There's several factors involved in determining copyright.

Q. And what factors are those?

A. The first one has to do with whether or not it's for educational purposes or the purpose of how you're using it. Since our course pages are for a particular class, then I'm assuming that is for educational purposes.

The second one has to do with the nature of the work. There's the amount and affect on the market.

Q. And did you consider these four factors when you were deciding to post things on EReserves?

A. For the most part that's something that the teacher should be considering because it's not something that I'm going to be able to evaluate. If something looked like it's something we shouldn't be doing, then we would question it.

Q. How did you determine whether it was something you shouldn't be doing?

A. The ILL thing comes to mind. Something is coming to mind at the moment.

Q. Do you have any idea whether those four factors were things that the teacher was looking at?

A. It's something they should be looking at.

Q. Right. But do you know if they were?

MS. GARY: Objection. Vague. What time period are we talking about? Are we talking about before the new policy, if that's something professors were considering?

BY MS. SINGER:

Q. Well, sure, let's start with before the new policy, was that something that professors were considering?

A. Since they're agreeing to copyright and all of our guidelines before they submit the material, I would hope that that's what they're doing.

Q. Did you have any way of knowing whether they were considering these four factors or not?

A. Well, they signed on the form. They also agreed when you go in and access your course page you agree to the copyright. When you submit your form you agree whether it's paper, online. So that would indicate to me that they have.

Q. Did you ever have any conversations about professors, whether or not they considered these four factors?

A. No, not that I remember.

Q. Did you ever have any conversations with professors about copyright prior to the new policy?

A. I probably have -- I might have mentioned the four factors, but I just don't remember specific conversations with them.

Q. Did you have any conversations with them about copyright generally prior to the new policy?

A. I might have mentioned it. I don't think I had any extensive conversations. I think it probably came up in some kind of discussion or some kind of mention at least.

Q. What would have been the general nature of that mention?

A. I can't think of anything at the moment.

Q. How did you become aware of these four factors?

A. I was part of when we started -- when we launched ERes the link to the copyright page was there.

The Board Of Regents thing was there as well. There was -- there was some information available.

Q. This was back in 2004ish?

A. It's probably before then, but yes, around that time.

Q. Did you familiarize yourself with the Board Of Regents and the link to the copyright page that you just mentioned?

A. Yes. If I remember correctly, one of those links might have been a broken link. But I don't remember specifically what that was.

Q. Other than generally familiarizing yourself with those materials that you just mentioned around the launch of EReserve, have you had the opportunity to consider the four factors since then?

A. Could you repeat the question?

Q. Sure. You mentioned that you familiarized yourself with the four factors for fair use around the time that ERes launched, right?

A. Yes.

Q. Have you had the opportunity to do any research or additional reading or discussions about the four factors since that time?

A. I attended a training session with Cynthia. Probably looked them over since then.

Q. Do you consider the four factors or do you consider fair use at all today when you're determining whether to post something on ERes?

A. It's the teacher's responsibility to do that.

Q. But do you consider it at all?

A. I would only consider it if something raised a red flag.

Q. What might raise a red flag for you?

A. If it was a lot of pages. There are probably other instances that might as well, but I can't think of any at the moment.

Q. What do you consider to be a lot of pages?

A. An entire book would certainly be a lot of pages.

Q. What else?

A. If it were a lot of chapters with a lot of pages. It's possible that five chapters could have only one or two pages each, but not typically. So that would raise a red flag, but not so much -- I would probably look at it. If I saw five chapters that were only two pages each that's only 10 pages, I would think about it, but it wouldn't raise as much of a red flag as if five chapters contained a lot of pages.

Q. Are there any percentages or number of pages that you use as a guideline for your red flags?

A. No.
Q. No. So a red flag for you is something more than 10 pages and something shorter than an entire book?
A. It could be. But not necessarily.
Q. Is there anybody else who has the opportunity to consider red flags in the system as it currently is?
A. Yes.
Q. Who?
A. Malia.
Q. Do you know what Malia considers to be a red flag?
A. No.
Q. Have you had any discussions with Malia about red flags?
A. We've had a few discussions. We're still pretty new at this, so I think we'll have more discussions and see more about what the requests look like as they come in.
Q. Approximately how many conversations have you had with Malia?
A. I don't know.
Q. Less than 10?
A. I see her every day Monday through Friday typically, and so at any point we could have mentioned something. I don't know how much we've mentioned it

or --

Q. Do you look over what Malia posts to EReserves?

A. I don't check behind her typically. When she's posting things if she has questions about it she would typically ask me.

Q. So you have no way of knowing if Malia is posting five chapters because it doesn't raise a red flag for her?

A. I might see it. The submissions when they come in, I'm checking ERes every day, so if something came in and it looked really suspicious to me, then I would check it.

Q. Do you review everything that comes in, every request that comes into ERes?

A. I don't review every single request, no.

Q. Are there requests that come in and get posted to ERes without you having seen them?

A. Yes.

Q. Does the library have any policies for deciding currently when a request raises a red flag?

A. The policy I would say no. We're still in the process of developing some procedures and that I know of at this time we do not.

Q. Are there any guidelines of what should raise a red flag before it's posted on EReserves?

A. There are guidelines and those guidelines state what -- they're there to help the people who are submitting reserves understand what can be posted.

Q. But does the library have any guidelines for what should be posted on EReserves or what shouldn't be posted on EReserves?

A. We can read the same guidelines. As far as the instructor's going to be responsible for meeting the various guidelines and the staff can read the same guidelines that the instructors read. So there are tools there available.

Q. Does the library have any guidelines or policies or guidance of any sort besides what's available to the faculty?

A. There are some -- some things are set in stone at the moment, but not everything.

Q. What is set in stone right now?

A. They have to submit via the online form. The pages are archived end of every semester. Possibly the items are deleted from the page at the end of every semester. There are others.

Q. Is there anything whether it's set in stone or being developed that would give the library staff member any kind of guidance as to when that staff member should

raise a red flag about posting something on EReserves?
A. I don't have any guidelines that specifically state red flag.
Q. Are there any plans for any guidance that specifically states red flag?
A. I don't know of any.
Q. So red flags really are subjective as to the person who's reviewing the request?
A. I don't know.
Q. Well, if there isn't any available guidance, how do you decide when to raise a red flag?
A. There are some things that would help you to do that such as we discussed the number of pages. I think there are other factors, I just can't think of any at the moment.
Q. Well, we discussed the number of pages. But are you able to provide what number of pages or what percentage should raise a red flag?
A. I don't have a specific number.
Q. Do you have any guidance or policies or any kind of suggested help that might help Malia decide when to raise a red flag for numbers of pages?
A. For numbers of pages?
Q. Sure.
A. We don't have a number of pages listed or

percentages as part of our guidelines.

Q. Do you have a general sense of a percentage or number of pages that would raise a red flag for you today?

A. A significant portion of the book would raise a red flag.

Q. What do you consider to be significant?

A. It would have to look like a lot of material.

Q. What's a lot of material?

A. It would depend on the situation. If it were a lot of pages or a lot of chapters that I would question it.

Q. And what do you consider to be a lot of pages or a lot of chapters?

A. The significant portion of the book.

Q. You said it would depend on the situation. What would it depend on?

A. The way in which the form was submitted. I mentioned earlier I would -- if it were a lot of chapters but only a few pages it might be okay. Probably still look at that anyway. Just depend on how the submission form looked when it came in.

Q. Is it kind of I know it when I see it standard for you to raise a red flag?

A. If it's a lot of pages it would raise a red flag.

Q. How would you decide that it's a lot of pages? What would you base that determination on?

A. If I looked at the request and it was for a lot of pages.

Q. And that would just be a subjective judgment for you that it was a lot of pages, that would be just something in your judgment?

A. Well, it's initially the instructor's judgment.

Q. Okay. And after the instructor has exercised his or her judgment and the request comes in you still have an opportunity raise a red flag, right?

A. Yes.

Q. And you would use your judgment to decide whether or not to raise a red flag, right?

A. Yes.

Q. Would you in your judgment consider 20 percent to be a lot?

A. 20 percent could be a reasonable portion.

Q. Would you consider 30 percent to be a lot?

A. 30 percent, it's -- if it was 30 percent of the book there's a good chance I would question it.

Q. Would you question 20 percent?

A. It's possible that I would question 20 percent, yes.

Q. Would you question 25 percent?

A. It's possible. There could be other factors other than the percentage.

Q. Okay. What other factors?

A. I can't think of any at the moment.

Q. Would you question 15 percent?

A. It's possible.

Q. In the current system do you look at the total number of pages of the book?

A. In the current system the instructor's responsible for determining what they're submitting, and so unless it raises a red flag then I would not look at the total number of pages of the book.

Q. How do you determine whether to raise the red flag if you haven't looked at the total number of pages?

A. If I saw a lot of pages I would know.

Q. So if you saw 50 pages, would you raise a red flag?

A. It's likely.

Q. If you saw 25 pages, would you raise a red flag?

A. It's possible. Any number of pages is possible.

Q. Have you reviewed any of the requests for the

Maymester?

A. Some of them, yes.

Q. Did you raise any red flags for anything that was requested to be posted for the Maymester?

A. Yes. There was an audio streaming page.

Q. Other than the audio streaming page, did you raise any red flags for the Maymester?

A. I don't remember any.

Q. Are you aware of whether Malia raised any red flags for the Maymester requests?

A. I don't remember any.

Q. What is the deadline for posting -- I'm sorry, strike that.

What is the deadline for submitting requests to post material for the summer semester?

A. I don't have a deadline for summer.

Q. Have any requests for the summer semester been submitted already?

A. Yes.

Q. Have you reviewed any of those requests?

A. Yes.

Q. Have any of them raised red flags for you?

A. I don't remember any.

Q. Has Malia reviewed any requests for the summer semester?

A. Yes.

Q. Have they raised any red flags for her?

A. I don't remember any.

Q. Is there anybody else who would have reviewed requests for excerpts from books for -- to be posted on ERes for the summer semester?

A. It's possible that someone else could have looked at some requests. Corey or Doug have access to the e-mail, but it's not typically what they do. But they could have looked at it and seen some things or possibly -- but they would definitely be posting their material, so they would have seen our material as well.

Q. Do you know whether Corey or Doug raised any red flags for either the Maymester or the summer semester?

A. I don't remember.

MS. SINGER: I'm told we're at the end of the tape, so why don't we take a short break.

THE VIDEOGRAPHER: Off the record at 11:01.23.

(Brief recess.)

THE VIDEOGRAPHER: This is tape 3. We're back on the record at 11:12:38.

BY MS. SINGER:

Q. Do students need a password to access material on ERes?
A. If it's -- if the ERes page contains copyrighted material, then yes, they do.
Q. How do they get that password?
A. The instructor is responsible for giving that to them.
Q. How does the instructor get the password?
A. We e-mail it to them typically.
Q. Who's in charge of creating the password?
A. The person who's posting the material would make sure that the password is on there, on the page or the folder or the item.
Q. When you say that the password is on the folder or the page or the item, does the password actually appear on the page in ERes?
A. The student would be prompted for the password in that since it would not appear.
Q. Who actually creates the actual password, the combination -- I'm assuming it's a combination of letters and numbers?
A. There's an automatic password generator on the software and typically we add a letter on the end of that. For instance, for summer we put an X on the end of the password because we change the password every

semester. And we're going to change the passwords anyway, but that's just an extra assurance that we've already done it for summer.

Q. How do students access the ERes server? They type in their password and then what appears?

A. They would search for their course page first and then if the page contained copyrighted material and it's password protected they would be prompted for that. They would agree to the copyright information there and then their page would open.

Q. What copyright information do they agree to?

A. I don't remember the -- I don't remember what it says.

Q. Is it just a general warning that the material is protected by copyright or is it something more specific than that?

A. It has more words than that.

Q. If lawyers were involved of course it does.

After the student types in their passwords, what appears to them?

A. The page should open.

Q. What does a page look like?

A. It can look a little bit different. There's not a whole lot of customization available but there is some. There can be folders on the page. I believe you can nest one folder within a folder. There can be individual items on the page.

Q. How does a student access either a folder or an individual item?

A. They would click on it.

Q. And when they click on an individual item, what happens?

A. If they clicked on the actual item then, if it's a PDF or a file similar to that, if it's not a link but some type of file, then the file itself should open. If it's a link, then it would link to the databases.

Q. If it's a PDF and it opens, what can the student do with that file?

A. It's -- they can read it or print it and download it.

Q. Is the file a regular PDF?

A. What do you mean?

Q. Are there any restrictions on the PDF? Strike that.

If a student downloads the PDF file to his or her computer, is it just a regular PDF file on their hard drive?

A. I don't know.

Q. Do you know whether the PDF file itself is password protected?

A. Once they -- I can password the file like when you go to click on the title there could be a password there. The actual PDF document, like there's not a password on the actual document.

Q. Where do students generally print the PDF files from EReserves, are those university printers somewhere?

A. The university has printers.

Q. And do students have access to those printers?

A. Yes.

Q. Does it cost money to print things on university printers?

A. I don't know. I think there's some printing -- I think there is some printing costs involved.

Q. Do you know if that's done -- is there a university student card or something they use to pay for printing?

A. They have a Panther card that you can swipe in order to print.

Q. Is it required to swipe a Panther card in order to print on university printers?

A. There may be other options, but I don't know. I know you can get a guest card. There may be other options other than that, but I don't know what they are.

Q. Is it possible to print on a university printer without swiping some kind of card?
A. Possibly. I don't know the answer to that.
Q. Are there printers in the library?
A. Yes.
Q. Are there computers in the library that students can use to access ERes?
A. Yes.
Q. How many approximately?
A. Approximately -- I'm really not sure of the exact number. An approximation might be -- well, I don't think I know because -- yeah, I don't know.
Q. Do you know whether students generally access ERes from library or other university computers or from their own personal computers?
A. I don't know.
Q. Do you know whether students generally print items from EReserves to bring them to class with them?
A. I don't know.
Q. Are those statistic kept anywhere in the ERes system?
A. I don't know.
Q. Is there any way to look on ERes and determine whether a student has printed an item or not?
A. I don't know.

Q. Who would know that?
A. I don't know.
Q. So I take it that's not something the library does in the ordinary course of business?
A. It's not something that I do.
Q. Can you tell from the ERes system whether a student has downloaded an individual item from ERes?
A. I don't know.
Q. What does the ERes system tell you about what a student has done with the file?
A. There are some statistic available at ERes, but I don't know precisely how they work.
Q. Can you tell me generally what kinds of statistics are available in terms of students accessing files?
A. You can see documents on pages, hits are also available. So I think that counts as a click on an item. But I don't understand the parameters around how those reports are generated.
Q. Is it generally your understanding that a hit could be a download, it could be a print, it could be just looking at it on the system?
A. It could be all those things.
Q. Are there other possibilities that a hit could be?

A. What did you list again?
Q. I think I said downloading, printing or viewing.
A. I can't think of anything else to add.
Q. Okay. Is there any limits on how many times a student can access an individual item?
A. They -- as far as within the parameters that they're in this course and this course is available and they're in this class, their teacher has given them this password they should be able to access the item any number of times throughout the semester. And unless some other stipulations were put on it it should be available for them to access throughout the semester.
Q. Are there any -- bearing in mind all those parameters, the student is in the course and the student has the password, are there any limitations on the number of times a student could print an individual item?
A. Not that I know of.
Q. Is there any limitation in the ERes system that prevents a student from keeping a PDF that they've downloaded to their computer once the semester is over?
A. Not that I know of.
Q. Does anything in the new policy change the way students can access individual items on ERes?

A. I can't think of anything that would change the way students access it.
Q. Do students receive any training on how to use the ERes system?
A. I don't know.
Q. Do you do any training for students on how to use the ERes system?
A. I have some instructions that I send out sometimes to teachers. If someone has trouble accessing something I may walk them through how to get to it.
Q. Is that students or just faculty?
A. It could be with students as well. I mean, I have spoken to students before as well. So as far as accessing the material and how to access it, it's -- I could show them, I could instruct them on how to get to the material.
Q. Have you ever had occasion to do that?
A. Yes, if someone calls or has some trouble with it, yes.
Q. Do you know approximately what the university charges to print a page --
A. I don't know.
Q. -- on the printers?
A. I know they do get some free printing, but I don't know -- I don't know the fee that they charge for

that or not.

Q. Do you know how much free printing they get?

A. No.

Q. Do the printers in the library -- strike that.

Is there a charge for printing things on the library printers?

A. Beyond the free amount that they get, then yes, there is.

Q. And what is that charge?

A. I don't know.

Q. Do you know what that money is used for, the money collected from the library printers?

A. I don't know.

Q. Do you know -- sorry -- whether the money collected from printing in the library goes to the library or goes back to the university?

A. I don't know.

MS. SINGER: If would please mark this as Plaintiffs' 125.

(Plaintiffs' Exhibit No. 125 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed what's been marked Plaintiffs' Exhibit 125. It's a two page document, a printout from a web site entitled course reserves FAQ for students.

Do you recognize Plaintiffs' 125?

A. Is this from the GSU reserves web site?

Q. Is Plaintiffs' 125 what you were referring to when you said you had information you could send out to students or was it something else?

A. So this document originated from our old web site, is that correct?

Q. I will represent to you, if you look at the bottom corner of Plaintiffs' 125 you see the date 5/11/2009. I will represent to you we printed it in our office on Monday, May 11th, 2009.

Let me ask it this way then. Is Plaintiffs' 125 the current FAQ for students on course reserves?

A. If this is printed from the current web site then I would say that yes, it's currently what we're doing unless there's something in here that I don't know about.

Q. Fair enough.

If you see at the second page of Plaintiffs' 125 at the bottom there it says page authors and it lists Malia and you and Shelby Failing and Denita Hampton. You see that?

A. Yes.

Q. So am I correct in assuming that you had some responsibility for drafting this page?
A. For the new web site, I did not draft the new web site.
Q. What do you mean by new web site?
A. The web site changed when the Board Of Regents policy changed and I don't know who drafted the web site, but it was not me. There may be elements of it that is something that I might have written, but the actual web site I did not write.
Q. But this Plaintiffs' 125, this document has your name on it as a page author?
A. Yes.
Q. Did you have a hand in drafting Plaintiffs' 125?
A. The -- not that I know of.
Q. Do you know how your name would have come to be on the bottom of Plaintiffs' 125?
A. I have access to edit this web site.
Q. So is it just a default that your name appears?
A. It's my understanding that technologically speaking I'm given rights to edit this page.
Q. Is being given rights to edit the page the same thing as being an author, to your understanding?

A. No.

Q. Do you know why you appear as a page author on Plaintiffs' 125?

A. So that I could edit the page if they need me to.

Q. Have you ever had occasion to edit the page?

A. The old web site, most of that web site was written by me. But the new web site was not written by me.

Q. What do you mean when you say the old web site?

A. The web site changed when our policy or when the Board Of Regents policy changed.

Q. That was sometime in spring 2009?

A. Yes.

Q. Just so I'm understanding you, is it a completely new web site or the web site same URL just some of the information changed when the new policy went into effect?

A. The URL itself, I'm not sure if it's the same. I think it is. You click the same path to get there.

Q. So it's your understanding that some of the information on the web site changed when the new policy went into effect in spring 2009?

A. Yes.

MS. SINGER: If you could please mark
this as Plaintiffs' 126.

(Plaintiffs' Exhibit No. 126
was marked for identification
by the reporter.)

MS. GARY: You actually have extra
copies of these?

MS. SINGER: This one I don't actually.
I'm sorry.

Off the record for a moment.

THE VIDEOGRAPHER: Off the record at
11:35:24.

(Brief recess.)

THE VIDEOGRAPHER: Back on the record
at 11:35:49.

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed what's been
marked Plaintiffs' Exhibit 126. It's a printout from
the Georgia State University library web site entitled
course reserves ERes guidelines.

Do you recognize Plaintiffs' Exhibit 126?

A. Is this from our old web site?

Q. I will represent to you again in the bottom
right corner of Plaintiffs' Exhibit 126 it bears the
date May 11th, 2009. I'll represent to you that we

printed this off the web site on Monday, May 11th, 2009.
Do you believe that these ERes guidelines are current?
A. It appears to me that they're not current.
Q. How do you make that determination?
A. I can see down here there's this 20 percent guideline which we no longer use.
Q. Anything else?
A. We don't use real audio format. The EReserves request form is not available at the reserve desk if they're submitting the material to be digitized. There may be other things. That's -- that's what I see right now.
Q. On P-126 in the middle section it says submission of digital print request, you see that?
A. Yes.
Q. The fourth bullet point says GSU library will not receive coursepacks for electronic reserves. You see that?
A. Yes.
Q. What is a coursepack?
A. It's a print resource of files for a class.
Q. What form do those print resources take?
A. I don't know.
Q. Have you ever seen a coursepack?

A. I've seen one. I don't remember much about them, but yes, I have seen one.

Q. What did it generally look like?

A. The one from my music class, a bunch of photocopy pages.

Q. Where did you get the one from your music class?

A. It's been a long time. I don't remember.

Q. Was it purchased directly from the university somehow?

A. I don't remember.

Q. Did you purchase it or was it free?

A. I don't remember that, either.

Q. Have you -- other than the coursepack you purchased for your music class, have you ever seen a coursepack?

A. I think I've seen a few. I'm sure at some point or I probably -- I'm not sure. At some point something might have showed up in reserves. So likely I have seen a coursepack.

Q. Do you have a general understanding of whether coursepacks are something that students pay for or whether they're available for free?

A. I don't know.

Q. Do you have any kind of general understanding about where students obtain coursepacks?

A. If -- I don't know where students obtain them, no.

Q. On P-126 in the first section on general, the last bullet point says for information on fair use and copyrights read the Regents' guide to understanding copyrights and fair use. Do you see that? It's the last bullet point.

A. Yes.

Q. To your understanding is the Regents' guide to copyright and fair use still available on the university's web site?

A. I believe that this link is still available. The policy for the Board Of Regents has changed, so -- but I believe the link to that policy is still available.

Q. Do you believe that the guidance provided in the Regents' guide to understanding copyright and fair use is still valid?

A. Do you mean -- what do you mean by that?

Q. Would you still be guided by the guidance available in the Regents' guide to understanding copyright and fair use in determining whether to post something on EReserves or not?

A. You mean the old guidelines or the new guidelines?

Q. Well, the Regents' guide to your understanding copyright and fair use, to your understanding that the old guidelines or the new guidelines?

A. I don't know.

Q. Do you consider the old guidelines to provide any information that is useful to you as you sit here today in determining whether to post something to EReserves or not?

A. I would reference the new guidelines and not the old guidelines.

Q. The very top of the second page of P-126 it says electronic reserve items which require copyright permission will not be posted until permission is secured. Do you see that?

A. Yes.

Q. What's meant by that?

A. If something does not meet fair use then permission to use that item would have to be secured before we would post it.

Q. Who determines whether something meets fair use?

A. Currently the instructor placing material on reserve would evaluate their material for fair use.

Q. Does the library check to see whether the

material complies with fair use?
    A.   The library does not or the reserves unit does not evaluate the material, though if a red flag were raised we would question it.
    Q.   If a red flag is raised, what does the reserve staff do?
    A.   We would investigate the material and if I were seeing that I would -- likely I would ask my supervisor about it and I might also ask legal affairs about it.
    Q.   What would you expect the outcome to be if some professor was trying to post something you felt raised a red flag?
    A.   I don't think I could speculate on that.
    Q.   Do you believe that a request that raises a red flag would ultimately end up being posted on EReserves?
    A.   I would have to discuss it with legal affairs. It would depend on the situation.
    Q.   Have you had occasion to discuss any EReserves requests with legal affairs?
    A.   Yes.
    Q.   On how many occasions?
    A.   I don't remember.
    Q.   Have you had occasion to discuss with legal

affairs any time in the last six months?
A. Yes. I don't remember an instance, but I have their phone number memorized.
Q. You mentioned that if it didn't meet fair use you would require copyright permission. What did you mean?
A. Whoever owns the copyright for the material would need to give permission for that. Or they could pay licensing or something of that sort as well.
Q. When you say they could pay, who would pay?
A. That would be the instructor placing the material on reserve.
Q. So is it your understanding that the instructor himself or herself would be responsible for paying for the license fees?
A. There could be some other way to do this. I don't have a budget for this. I don't know if anyone else does or not.
Q. Does anyone in the library have a budget for paying for licensing?
A. I don't know.
Q. Have you ever seen a professor bring copyright permission?
A. It's happened. I don't remember instances of it specifically. There might be something if we

received a letter or something, there might be something scanned in ERes or something. It has come up at some point. I just don't remember the instance of it.

Q. So it isn't a frequent occurrence?

A. No.

Q. Have you ever had occasion to tell a professor they needed to acquire copyright permission?

A. Probably so. I think -- usually we give them options for things, and that's one of the options. If something doesn't meet fair use, then we'll give them some options.

Q. What would those options be?

A. If -- one of the things that -- one of our guidelines is that the GSU library or the instructor must own an original copy of -- a first generation copy, the one you would purchase, a lawfully obtained copy of the item in order for us to digitize it. If the library or the professor does not own that, then we can suggest that the library purchase it. That's one.

Q. Are there any other options that the library gives?

A. They could use an alternative item that does meet fair use. I can't think of anything else at the moment.

Q. My question may not have been entirely clear here. When you say the library determines an item doesn't meet fair use, what were you referring to?

A. If -- that was one instance. If it doesn't meet the GSU policy for this meeting that either the instructor or the library doesn't own the original item, that's one instance of that.

Q. Are there any other instances encompassed in your statement when something -- when the library determines something doesn't meet fair use?

A. I can't think of one at the moment.

Q. And again at the bottom of P-126 it says page authors. And again we see Malia, you, Shelby Failing and Denita Hampton. You see that?

A. Yes.

Q. Are you one of the authors of P-126?

A. I've -- I didn't write the new web site. My understanding of this instance of my name being listed here is I have rights to edit the page.

Q. So no, you didn't write P-126?

A. I did not write it. I could have written -- well, wait, this is -- actually this is -- P-126 is -- if we confirm that it is the old web site, then I did author this one. Or I did write it.

Q. How would we go about confirming that it's the old web site?

A. I don't know.

Q. Me neither.

Ms. Dimsdale, I'm handing you what has been previously marked as Plaintiffs' Exhibit 37. Do you recognize Plaintiffs' 37?

A. It's a little hard to read.

Q. I apologize for that. The copy that was originally produced wasn't great and several generations of photocopies have not helped that issue.

A. Is this from our current electronic reserves request form?

Q. That's what I'm asking.

A. It appears to be so.

Q. Did you have any involvement in creating Plaintiffs' 37?

A. There are elements of the new form that were a part of the old form and basically they just revised the old form it looks like to include additional requirements. And I was not involved in -- I didn't create these new additions. I did converse with Laura about it somewhat.

Q. What did you discuss with Laura?

A. I don't think it's -- one of the things that I don't think is evident from this printout, but we talked about the library already licenses the item is one of the things that we talked about, and I asked her if we could create a link to more fully explain that or give some instructions about it. And so she did. That's one of the things. I don't remember what else we discussed.

Q. The information that you suggested being included to explain the linking, do you see that as part of Plaintiffs' 37?

A. It does not -- I can't tell from this -- I can't tell from this handout. From this copy.

Q. Okay. When you said they took the old web site and changed the form, who is the they in that?

A. I don't know.

Q. I think you mentioned, and I'm not going to get your wording exactly right, but I think you mentioned this morning that you were in charge of work flow for the reserves system?

A. Yes.

Q. Is that generally correct?

A. Yes.

Q. Would designing these forms be something that you include in the definition of work flow?

A. Work flow to me would relate more to getting the work done as far as working the front desk, processing the reserves, how is the work getting done, and is it -- is it efficient, is it too hard, is it too easy, are you sitting around, are you working, those kinds of things.

Q. Does anyone ever get to sit around?

Would you consider Plaintiffs' 37 to be the new web site that you referred to?

A. As far as I can tell it appears to be such. But it would need confirmation that it is because I don't have this web site in my mind.

Q. What would you do to confirm that?

A. I was hoping you would since you presented the document.

Q. I'll relate to you that this was produced to us.

If you look about the fourth page of P-37, says electronic reserves request form at the top.

A. Most of them say that. Can you be more specific?

Q. Sorry. The text starts out what kind of request would you like to make, click on the tabs above or the links below. I think it's the fourth page.

A. Okay.

Q. Is this fourth page of P-37 what you were referring to earlier when you said the professors or the teachers click on the link for the kind of material they want to place on EReserve?

A. Yes.
Q. And the things listed on this fourth page of P -- of P-37 are the kinds of things that they can post on ERes?
A. Yes, these kinds of -- these -- it is possible they can place these kinds of materials on ERes.
Q. The next page of P-37 says print book?
A. Yes.
Q. Is this the online form that a professor would currently use to submit a request for a book?
A. For the physical copy of a book, yes.
Q. Okay. All right. The third to the last page of P-37 says electronic colon book. You see that?
A. Yes.
Q. Is this the form that a professor would use if they wanted to post a portion of a book to ERes?
A. This appears to be the form for that.
Q. The current form?
A. Yes.
Q. If you see the second section under the line there, it says this item can be placed on electronic reserves because choose one?
A. Yes.
Q. And the first choice is the library already licenses the item?

A. Yes.
Q. Do you know what is meant by that?
A. That's the item that I mentioned earlier where if you click on it there's instructions about that. And typically that means that we have a database, so the item is licensed through one of our databases.
Q. The second choice is it falls under fair use according to the fair use checklist I completed. Do you see that?
A. Yes.
Q. What does that mean?
A. There is a fair use checklist, if you click on that, that wording there, it should take you to a fair use checklist. And the instructor if they are claiming fair use would need to fill that out.
Q. Does the library check to see whether the professors have filled out the fair use checklist?
A. No, not that I know of.
Q. Did the library collect the fair use checklist at all?
A. No.
Q. The third choice, it is public domain or allowed under a creative commons license, do you see that?
A. Yes.

Q. What does that refer to?
A. Yes. If it's public domain then the -- if it's truly public domain then you shouldn't need to pay licensing to use it. I guess there could be some exceptions to that, but I think that's typically what that means.
I'm not that familiar with creative common license. I've seen a few web sites, but I think -- I don't really know what -- I didn't read them, so I don't know what they are.
Q. A fourth choice is I obtained permission from the copyright holder. Do you see that?
A. Yes.
Q. What does that refer to?
A. If the copyright holder gave someone permission to use it, then they could check that I would think.
Q. Would the library look at a copy of the permission?
A. What we've done in the past, which is -- or probably what we would continue to do, I'm not sure what we're going to do, but we have asked them to provide us with a permission letter before. So I don't know if we'll continue to do that or not.
Q. Do you know whether it is possible to submit

this form without checking one of those four buttons?

A. You have to check at least one of the four buttons.

Q. Is it possible to check more than one?

A. I don't know.

Q. At the bottom of the page it says, please note that documents violating copyright and copyrighted items submitted without complete citations will not be posted. You see that?

A. Yes.

Q. What does that mean?

A. That means that you must follow the copyright law and give us complete citations. The information up here is a letter, this is required, I don't remember what all is required, but a decent amount or if not all of the citation is required.

Q. I'm handing you what has been previously marked as Plaintiffs' Exhibit 38. Do you recognize Plaintiffs' 38?

A. Did you get this from the new Board Of Regents copyright information page?

Q. I got this from your lawyers.

A. It appears to be the new version of the Board Of Regents copyright information page.

Q. Have you had occasion --

A. As far as I can tell.
Q. Sorry. Have you had occasion to peruse this web site?
A. Yes.
Q. When was that?
A. When the policy went live I perused.
Q. And when did it go live?
A. I don't remember.
Q. This is again sometime in the spring 2009?
A. Yes.
Q. On the first page of P-38, the second bullet there talks about things that -- well, all four bullet points talk about the things the University System of Georgia does. And the second bullet point is develops and makes available tools and resources for faculty and staff to assist in determining copyright status and ownership and determining whether use of a work in the specific situation would be fair use and therefore not an infringement under copyright law. Do you see that?
A. Yes.
Q. Do you have an understanding of what the tools and resources that are made available are?
A. The resources, some of those would be that links about and information about copyright are available. One of the tools would be the fair use

checklist. Another resource would be the lawyers offices.

I believe somewhere, I don't know if it's on this web site or not, but there is -- well, Georgia State University has their law offices, so that's a resource. And the Board Of Regents provided an e-mail for I don't remember who it was, but there was a law related e-mail as well provided by Board Of Regents.

Q. Have you had the opportunity to avail yourself of any of these resources?

A. I've read over the material.

Q. The material being the web sites?

A. Yes.

Q. Have you done anything besides read over those web sites?

A. That's mostly what I've done.

MS. SINGER: I'm told we need to change the tape. So maybe this would be a good time to break for lunch.

THE VIDEOGRAPHER: Off the record at 12:10:57.

(Lunch recess.)

THE VIDEOGRAPHER: This is tape 4, we're back on the record at 1:13:25.

BY MS. SINGER:

Q. Before the break we were looking at Plaintiffs' 38. Do you still have that in front of you?

A. Yes.

Q. The last line of the front page of P-38 says, identifies individuals at the University System and member institutions who can counsel faculty and staff regarding application of copyright law. You see that?

A. Yes.

Q. Who are the individuals who can counsel faculty and staff regarding applications of copyright law?

A. The folks over at the legal affairs office such as Cynthia Hall.

Q. Anybody in the library?

A. Not that I know of.

Q. The second page of P-38 says additional guidelines for electronic reserves. Second page. You see that?

A. Yes.

Q. The first bullet point there says instructors are responsible for evaluating on a case by case basis whether the use of a copyrighted work on electronic reserves requires permission or qualifies as a fair use. If relying upon the fair use exception, instructors must complete a copy of the fair use checklist before submitting it to electronic reserves. You see that?

A. Yes.

Q. And down a little ways it says library reserve staff should check to see whether material submitted for electronic reserves are available through an electronic database or otherwise legally available. If so staff should provide a link rather than scanning material. You see that?

A. Yes.

Q. What does it mean for whether materials submitted for electronic reserve to be available through an electronic database or otherwise legally available?

A. If it's through our databases then we would link to those databases. We have a lot of databases.

Q. I'm sorry. Go ahead.

A. I think that's it.

Q. What does otherwise legally available mean to you?

A. I think, I probably don't have the full meaning of that, but if it was something that we could link to that was legally available on a site that was not in our databases, that is likely a possibility.

Q. Ms. Dimsdale, I'm handing you what's been previously marked as Plaintiffs' Exhibit 90. Do you recognize Plaintiffs' 90?

A. It appears to be our fair use checklist.
Q. To your understanding, how is the fair use checklist used?
A. If instructors are claiming fair use they would need to evaluate their material. And this is one of the tools that they would use to evaluate that material.
Q. And have you yourself ever used this checklist?
A. I have not used this checklist.
Q. Can you think of -- strike that.
Do you have any understanding of what other tools the faculty would use to fill out this checklist?
A. There's some information given with copyright information, there's a web site here. There's also instructing them that they can contact legal affairs. And also discusses something about the Board Of Regents.
Q. If under the new policy a professor submitted a request that raised a red flag now, would you ever consult the fair use checklist yourself?
A. No.
Q. Why not?
A. I would consult legal affairs. I would likely consult my supervisor and -- initially. I think it would depend on the situation whether or not we

contacted legal affairs. But the fair use checklist is a tool that the instructor needs to use because they're the ones that are teaching the material and who are going to be most intimately familiar with how that material would be taught.

Q. Do you believe that anyone on the reserves staff is in a position to challenge the way a professor has filled out the fair use checklist?

A. If we happen to see it we might question it. But I don't -- as far as I know we wouldn't -- because we don't know how they're using the material I don't think that we could evaluate it appropriately. So I don't think that we should do that.

Q. Have you received any training on how to fill out this checklist?

A. No. I've looked at it, but -- and I've had -- I went to a copyright training session. I don't remember talking about this in the training session but we might have. But I haven't actually been -- and I discussed some of these, the wordings of things, but I haven't actually been trained to fill out the form.

Q. Without inquiring into any communications that might be attorney client privilege, which of the factors or criteria on Plaintiffs' Exhibit 90 have you had discussions about?

A. Probably a lot of them, but I don't remember which -- I don't know if I've discussed all of them or not. But I would say a lot of them.

Q. Who have those discussions been with?

A. Some of these things were mentioned -- some of the aspects of this were I think mentioned in my training session. But I don't remember exactly. Because it wasn't presented in this format I don't remember exactly everything that was said.

Q. Is it your understanding that if a professor fills out this checklist and two or three of the factors weigh in favor of fair use, then it becomes a fair use, it would be deemed to be a fair use?

A. It's my understanding that the instructor would need to evaluate all of the material that's listed here.

Q. Okay. And if the professor does that -- there's four factors, right?

A. Yes.

Q. And is it your understanding that if at least two or three of the factors come out in favor of fair use then the overall for that particular work will be fair use?

A. I don't know.

Q. Is there a limit to the number of items that any professor can place for a particular course on EReserves?

A. The new policy I believe calls for 50.

Q. Do you know when that policy was instituted?

A. Sometime spring '09.

Q. Do you know why that 50 item limit was instituted?

A. I'm not sure. Work flow might have something to do with it.

Q. Have you ever had a professor -- well, strike that.

Since the new policy has been in effect, have you had a professor ask to post more than 50 items on a particular course reserve page?

A. Not that I know of.

Q. Prior to the policy, had you ever had a professor try to post more than 50 items?

A. Yes.

Q. Prior to the new policy, was it permissible for a professor to post more than 50 items on one course reserve page?

A. Yes.

Q. Do you know whether the 50 item limit was part of the Board Of Regents new policy or if that was a particular GSU library policy?

A. I don't know if it's policy. And I believe that it's a Georgia State University procedure.

Q. What's your understanding of the difference between a policy and a procedure?

A. I think that a procedure is going to relate to how the materials are processed. And the policy itself I believe is overall what we're doing. And the procedure is more how we're placing that policy into effect.

Q. Who enforces policies?

A. I don't know.

Q. Do you know who enforces the copyright policy, the new copyright policy?

A. I don't know.

Q. Do you know if anyone does enforce the new copyright policy?

A. As far as making sure that the policy is followed, then the reserves staff would follow certain procedures such as making sure that online form is submitted or the proper things are done. I don't really know what you mean other than that.

Q. Does the reserve staff enforce the policy that items need to fit within one of those four exceptions in order to be posted and those were --

A. The reserve staff would not use the fair use checklist to evaluate material. They would not fill that out for someone. It would be the instructor's responsibility to complete the fair use checklist.

Q. What exactly does the reserve staff do to see whether the copyright policy has been complied with?

A. One of the things is to make sure that if it's going to be an electronic item that's placed on reserve, they would make sure the online form was submitted. If there's copyrighted material on an ERes page, then make sure that there was a password. Also expiring the page, archiving the page at the end of the semester. That's what comes to mind at the moment.

Q. Anything else?

A. There are other things, but that's just what I was thinking of at the moment.

MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 127.

(Plaintiffs' Exhibit No. 127 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a printout from the Georgia State University library web site dated May 11th, 2009 entitled course reserves FAQ for instructors.

Do you recognize this document? Take your time to review it. I'm going to ask you specific questions, so right now I'm just generally asking if this is something that you recognize.

A. The -- it looks familiar.

Q. Okay. On page 2 of Plaintiffs' 127 about two thirds of the way down the page, the question in bold is do I have the option of placing paper copies of materials such as articles and class notes on reserve. And the answer is no. Students now expect and prefer to access reserve materials from the computer desktop. Online access allows an unlimited number of students to access the materials 24/7 from anywhere in the world.

To best of your understanding is this current policy?

A. This -- I don't know about the option of placing paper copies. I don't know if that's something that's going to change or not. But the access, the unlimited numbers of students to access the materials 24/7 from wherever they are seems to be current to me.

Q. The next line of P-127 says, what materials may be placed on reserve without obtaining copyright permission. And we see physical copies of books, CDs and videos.

Is that still current?

A. If it's an original, if it's not a second generation copy, if it's the lawfully obtained copy of these materials then that should be current, yes.

Q. Okay. The next item is up to 20 percent of a book owned by either the instructor or GSU can be digitized. Is that current policy?

A. There's not a percentage limit given in the current policy.

Q. The next item is journal articles owned by GSU or by the professor placing the item on reserve not obtained through ILL or GIL express, these items will be digitized. Is that current policy?

A. Current policy is to link to journal articles in the GSU databases.

Q. What if it's a journal article that's not in one of the GSU databases?

A. I would probably have to ask legal affairs about that.

Q. Have you had occasion to do so since the new policy has been in effect?

A. No.

Q. How about government publications, can those still be placed on reserve without obtaining copyright information?

A. Government documents, might check up on it, but typically I think they're available to the public. I believe we can link to those.

Q. And exams, homework solutions, lecture notes and any publication you, you being the professor, own the copyright on, those would still be able to be posted on reserve without obtaining copyright permission, right?

A. If the instructor owns the copyright and they're giving themselves permission, so it seems that we could place that on reserve.

Q. On the next page of P-127, the question is when should I seek copyright permission. And the answer is when an article not owned by you or GSU is submitted for reserve. Is that still the case?

A. Yes. Well, I think it would depend, but there's a good possibility, yes, that you need permission to do that.

Q. When multiple chapters or more than 20 percent of a book are intended to be placed on reserve. It that current policy?

A. There's no percentage given in current policy.

Q. Do you believe that copyright permission needs to be sought if it's more than 20 percent of a book intended to be placed on reserve?

A. It would depend on the situation and the

instructor would evaluate their situation.
Q. Little ways down on P-127 it says the bookstore did not order enough copies of my textbook for class. Can I put a photocopy of the book on reserve. Answer no. This is not considered fair use because it affects the marketing value of the copyright owner. The instructor may place his or her own original copy of the textbook on reserve. Is that the current policy?
A. The current policy is actually pretty short, so a lot of these details that you're referring to as policy is probably not policy. The photocopying an entire textbook, there's a good chance that that will affect the market value, so that's not a practice that we would typically do.
Q. What if a professor filled out the fair use checklist and determined that the photocopy of the entire book was fair use, would you go ahead and post it?
A. That would be a red flag, and so that would have to be questioned and would go to the supervisor or legal affairs or both.
Q. What is meant by it's not considered fair use because it affects the marketing value of the copyright owner?
A. I think marketing value is a very difficult

factor to determine. It's quite possible that an entire book would affect it because you can just take the photocopy of the entire book instead of purchasing it. You don't want to replace -- students should be or someone should be purchasing this book if we're going to put this book on reserve. And to make a photocopy of it seems like it has the potential to really affect the marketing value.

Q. What's your understanding of the marketing value?

A. Not much.

Q. In your opinion could something, something less than the full book be photocopied and placed on EReserves and not affect the marketing value?

A. I think it depends on the situation.

Q. Can you think of any situation where photocopying something less than the entire book and putting it on EReserves would not affect the marketing value?

A. Hopefully there's a lot of those situations. Specifically I don't have one in mind, but yes, I believe there's a lot.

Q. Who has the ability to either add or delete items on a course reserves page in ERes?

A. Anyone with administrator access.

Q. That would be the ERes staff and the other individuals we talked about, the Laura Burtle or Jim Palmour?

A. Yes.

Q. Do professors have access to their ERes pages?

A. No.

Q. So professors are not able to place items on -- additional items on their ERes page themselves?

A. That's correct. We had one instructor with an exception to that, but we have since taken away that person's administrator rights. When we first set up ERes there were -- I don't remember who the instructors were when we first set it up, when we did this, but we gave a few instructors some administrator rights and for some reason, I don't remember the exact specifics of it, we decided not to do that. And one instructor had those rights for some time, but they're gone now. So currently only administrators that are -- administrators are not instructors.

Q. What was the library's experience when instructors were placing items on their own ERes pages?

A. I don't remember.

Q. Do you recall whether they were posting lots of items on their ERes pages?

A. I don't remember.

Q. Approximately when?
A. It was at the very beginning. I don't even remember if it's when we went live or not. It was a long time ago. I don't remember.
Q. So as we sit here today professors do not have the ability to place items on their reserve page themselves, correct?
A. Correct.
Q. Why is that?
A. I don't know.
Q. Have you ever had professors ask for the ability to put things on their ERes pages?
A. I probably have. I don't remember the specifics of the situation.
Q. Have you had any interactions with faculty since the new policy went into effect concerning ERes?
A. Yes.
Q. Could you tell me about some of those interactions?
A. Could you be more specific?
Q. Sure. Have those interactions been in the nature of questions about how the new policy works or opinions about the new policy?
A. I think the biggest question I've come across is the instructors want to renew their page, which we

don't do that like we used to. So I instruct them to fill out the online form and typically I give them the URL with that. That's one example.

I've helped people fill out the -- instructor's fill out the online form because sometimes they have some technological problems with it. That's what comes to mind at the moment.

Q. How do they react when you tell them they can't renew their page any more?

A. Can you rephrase the question?

Q. Sure. You've had occasion to tell faculty members since the new policy went into effect that they were not allowed to renew their page any more, correct?

A. Yes.

Q. What did the professor say when you told them that?

A. Well, they wanted to know if they can't renew it if they could still place stuff on reserve. And then I would tell them that they could use the online form. Or if it's books, then they have the option of that paper form.

Q. And did they go ahead and fill out the online form?

A. Yes, we've had several of them actually do that. The semester is pretty small so we haven't actually done a whole lot of things. But yes, we have had instructors fill out the online form.

Q. Have you had occasion to have general conversations with any faculty members about the new policy?

A. I've had some conversations.

Q. And what was the general substance of those conversations?

A. Just to -- the main part of the conversation seems to be that they need to fill out the form, the online form.

MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 128.

(Plaintiffs' Exhibit No. 128 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3396 which has been marked as Plaintiffs' Exhibit 128. Do you recognize Plaintiffs' 128?

A. Not particularly.

Q. Plaintiffs' 128 appears to be an e-mail from Marjorie Denise Dimsdale. That's you, right?

A. Yes.

Q. To Susan Smith?
A. Yes.
Q. Who's Susan Smith?
A. She's a liaison librarian.
Q. For what subject?
A. I don't remember.
Q. And P-128 is dated August 18th, 2008. Do you see that?
A. Yes.
Q. It looks like in this e-mail chain of P-128 Susan Smith wrote to you on August 15th, 2008 and she says, hey, Denise, thank you very much for communicating with Carol. I know you are all super busy over there right now. I did try to advise her on this more than a month ago.
Do you know what Susan Smith is referring to?
A. No.
Q. Your response in P-128 is, I don't think I helped very much. She seems to want black and white answers which is a reasonable thing to want except they often do not exist.
Do you know what she wanted black and white answers about?
A. I don't remember.
Q. A little bit further down on P-128 you say,

also if faculty use ERes they are still responsible for copyright. It's just different because the library staff police it. Do you see that?

A. Yes.

Q. Now, P-128 is dated August 2008. As we sit here today, is it still true that library staff police copyright?

A. There's a red flag issue, but if there's no red flag and an instructor submitted their materials then we would not be evaluating it.

Q. Are you aware of any policy or procedure or guideline that defines the red flags?

A. There's guidelines available, general guidelines that we can read.

Q. Do they define red flag?

A. The words red flag with a definition beside it to my knowledge do not exist.

Q. Have you received any training or instruction on when a red flag should exist or when you should raise a red flag?

A. The guidelines that were given discuss copyright in general. And those kinds of things when you're reading through these guidelines and the policies define much of what should be -- well, it defines what we should be doing. And so if something doesn't seem to fit within that, then that would be a red flag.

Q. And that's a subjective judgment when it doesn't fit within that?

MS. GARY: Objection. Asked and answered.

BY MS. SINGER:

Q. You can answer again.

A. I think that we would use -- we would use the guidelines to make a decision about what we would do. We also may consult legal counsel.

Q. And the guidelines you're referring to is specifically what?

A. There's some guidelines available on the GSU web site, Board Of Regents has some information as well.

Q. Ms. Dimsdale, I'm handing you what's been previously marked as Plaintiffs' Exhibit 17. Do you recognize Plaintiffs' 17?

A. Not particularly. Maybe not at all.

Q. Then you're off the hook.

MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 129.

(Plaintiffs' Exhibit No. 129 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 23479.

A. Yes.

Q. Marked as Plaintiffs' Exhibit 129. Do you recognize this document?

A. It appears to be the letter that was sent out through our e-mail system about the new USG copyright policy.

Q. Do you recall receiving Plaintiffs' Exhibit 129?

A. Yes.

Q. Is it your understanding that March 10th, 2009 is approximately when the new policy became effective?

A. I don't remember the date, but it was sometime spring 2009.

Q. Plaintiffs' 129 says, towards the bottom, the Office Of Legal Affairs has prepared a one hour training workshop on copyright, fair use and the new USG copyright guidelines. You see that?

A. Yes.

Q. Is this the training workshop that we spoke about this morning that you attended?

A. I don't remember about the one that I attended before. There's one offered next week and that's quite possibly one of the ones that they're talking about. I don't know if it's one hour or not.

Q. Are you planning to attend the one next week?

A. Yes.

Q. Ms. Dimsdale, I'm handing you a document that has been previously marked as Plaintiffs' Exhibit 91. Do you recognize Plaintiffs' 91?

A. That looks familiar.

Q. Plaintiffs' 91 appears to be an e-mail from you to Laura Burtle dated May 8, 2008. Do you see that?

A. Yes.

Q. And in this document you say, how many of the books on EReserve have 20 percent posted versus less than that. And then you say I'm still trying to figure out a way to answer this question. Right?

A. Yes.

Q. Did you ever come up with a way to answer that question?

A. Not really.

Q. What is -- based on your experience, do you have a sense of how many of the books on EReserve had 20 percent posted versus less than that?

A. No.

Q. Do you have a sense as we sit here today how many of the books, excerpts on ERes for the Maymester or the summer semester have 20 percent or less than that?

A. Not really. 20 percent is pretty specific, yeah, but I don't know, I don't have a way to know that.

Q. A little bit further down on P-91 under other notes you say we manage ERes for copyright per course page without regard to how much or how often the item is being used elsewhere in ERes. We make sure that the items being used meets fair use for the specific class for the specific semester. Do you see that?

A. Yes.

Q. What does it mean to manage ERes for copyright per course page?

A. It's does this specific item meet fair use for this specific class.

Q. As we sit here today, is it still true that you manage ERes for copyright per course page?

A. Well, the instructor would tell us -- they would tell us if -- the copyright information that we need. So it would be up to them. They're submitting the material for a specific class. But I don't know, I don't know how to answer that question I don't think.

Q. What other ways could you manage ERes for copyright if it wasn't per course page?

A. I don't know.

Q. Ms. Dimsdale, I'm handing you what has been previously marked as Plaintiffs' Exhibit 79. Do you recognize Plaintiffs' 79? You may not recognize the first page, but --

A. Don't recognize the first page. It looks -- I'm not sure what this is. It does look like it could be some statistics from ERes.

Q. Would those be statistics that you would have compiled?

A. I don't remember.

Q. Have you ever compiled statistics on the hit count for ERes?

A. Yes.

Q. Is that something that you do in the ordinary course of business?

A. I don't -- under the things that we used to do, not the new policy, under the old policy or guidelines the way things used to be done I did some -- I ran some statistics reports, but I didn't use it very much. Might have -- I think we did some for the annual report, might have done some on some course pages. But it wasn't something I did a lot of.

Q. Under the new policy do you know whether you'll be compiling course statistics at all?

A. I think that I will be compiling more. I think it will be more.

Q. Well, that should be fun.

A. Yea.

Q. Do these statistics set forth in Plaintiffs' 79 look to you accurate?

A. I don't have a way of knowing that really.

Q. Does it make sense to you that 259,691 hits on ERes for 2007, does that sound about right to you?

A. I don't really have a way of knowing that. The statistics themselves confuse me a bit. I don't know the parameters by which they're -- I don't know how the software works exactly with the statistics.

Q. How would you -- I'm sorry, I don't want to cut you off.

A. I guess I just -- I don't know. This is saying this is the hit count for this year is what this document is saying. So that's there. I'm not completely sure of what that means.

Q. If you wanted to pull a report that had the hit count for 2007, how would you go about doing that?

A. You can go into the software and choose some statistics options. I don't think I could talk you through it at the moment.

Q. Ms. Dimsdale, I'm handing you what has been previously marked as Plaintiffs' Exhibit 80. Do you recognize P-80?

A. It looks familiar. It appears to be an e-mail from me to Laura again.

Q. And you say there are a lot of features about ERes that we are not using. When the system first came out a lot of the options were just awful so we used what would work for us. We have not changed much of what we do even though ERes has provided a multitude of upgrades.

What features were you referring to that you were not using?

A. There's -- we tried using some of the bibliographic features which is not optimum because it doesn't show you the bibliographic information. So the best option we've come up with is to put the complete bibliographic citation in the title field. So that's what we're currently doing.

There's also some other copyright features of the system and I'm not sure completely how they work. But I think you have -- I think you have to be an administrator or something like that to use some of these features. Yeah, I'm not sure how they work. I'm grasping here. I don't know.

Q. You have a general sense of what some of these features might do?

A. So what features do you want to know about?

Q. Copyright options.

A. There's -- I would have to look at it. I don't think I can tell you without looking at the system.

Q. And in the last line of P-80, we manage ERes by the course but ERes seems to be designed to be managed more by the document.

What did you mean by that?

A. There's -- I'm not completely sure that's a true statement. Although it could be. But it seems like you can go in and you can choose copyright features for specific documents. And I don't understand how that works per course page. But I think it has to be related somehow and I don't understand that.

MS. SINGER: Why don't we stop here so that we can change the tape and take a short break.

THE VIDEOGRAPHER: Off the record at 2:07.

(Brief recess.)

THE VIDEOGRAPHER: This is tape 5. We're back on the record at 2:20.

BY MS. SINGER:

Q. Ms. Dimsdale, I'm handing you what's been marked as Plaintiffs' Exhibit 77. Do you recognize Plaintiffs' 77?

A. Looks to be some statistics from ERes.
Q. Who in the ordinary course would pull a report like P-77?
A. Anyone with administrator access could do it.
Q. Do you know who actually pulled this report?
A. I'm not sure.
Q. In the column with the title document on P-77 seems to be -- the entries there seem to be -- well, strike that. Let me ask it as a question.
Are the entries in the document column what you were referring to a few minutes when you said you put the full bibliographic information in the title field?
A. It -- I believe that this document field is the title field.
Q. And then am I correct in thinking that you put all the bibliographic information in that field?
A. Currently that's what we're doing. That's not what we used to do necessarily, though we did sometimes. The old way of doing things was that the full bibliographic information should be available somewhere either on the document or somewhere on the ERes page or in the fields.
Q. When did the policy change to the current one where all the information is in the title field?

A. That procedure is something very new. I don't think it's part of a policy, but it should be -- it's something we've just started doing recently.

Q. So the information in that document or title field, whatever the official name is, is the author, the year of publication, the full title, the publisher and the page numbers?

A. I think what we want to be sure to currently include -- I don't know what all is included in these. Currently we want to be sure we include all of the information that's required on the online form, which should be given to us, anyway. I think it includes all that you mentioned, though I'm not sure.

Q. Where you see page numbers on P-77, for example, the first entry says Mackay, Ian, 1987, for Phonetics: The Science of Speech Production (2nd Edition) pages 443 to 57, are those the page numbers of the excerpt that's posted on the ERes system?

A. I don't really have a way of knowing that from this information.

Q. Do you have any reason to believe that those are not the page numbers that would be posted in the ERes system?

A. If -- what's the question again?

Q. Sure. There's entries in the first column of the document or title column that have page numbers.

A. Yes.

Q. Are those meant to be the page numbers of the excerpts that are posted on ERes?

A. I think we should be putting the page numbers there, so yes, I think if there are pages indicated there that should be the pages of the document.

MS. SINGER: If you would please mark this as Plaintiffs' 130.

(Plaintiffs' Exhibit No. 130 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 656 through 667 entitled One Stop Shopping Reserves, Using Docutek ERes, Denise Dimsdale, Tim Zou, Georgia State University library.

Do you recognize Plaintiffs' 130?

A. It appears to be some printouts from a PowerPoint presentation.

Q. Who gave the PowerPoint presentation?

A. I did along with Tim Zou.

Q. Who is Tim Zou?

A. He was my supervisor at the time.

Q. When was at the time?

A. Well, according to this document that was in 2004.

Q. P-130 says 2004 GUGM annual conference?

A. Yes.

Q. What does GUGM stand for?

A. It's the GIL Users Group Meeting.

Q. What is GIL?

A. GIL is the library catalogue. That's how we search for our books and what not.

Q. Is that the catalogue for the entire university?

A. The -- how do you define that. GIL I think is for Georgia State University, perhaps this is our Galileo definition. I'm not sure. There's a way to search the University System of Georgia books as well and I'm not sure -- we call the Georgia State University catalogue GIL and I'm not sure what you call the universal catalogue, if there's more to that title, for all of the University System of Georgia materials. This users group meeting would be people of the University System of Georgia using GIL.

Q. Is GIL is acronym for something?

A. I think it means Georgia Interconnected Libraries. So yes.

Q. When -- strike that.

When you presented this PowerPoint at the 2004 GUGM annual conference, what were you intending to communicate to your audience?

A. The -- we were talking about the way in which we use Docutek to do our reserves.

Q. Were any of the other attendees at that conference using Docutek for EReserves at that point?

A. I don't remember.

Q. Who created P-130?

A. I believe Tim and I did it together.

Q. If you turn to the Bates stamp on the page is Georgia State 663. The first bullet point says critical distinction between copyrighted work and the copyright. What did you mean by that?

A. I don't know what that means.

Q. Do you know what you intended when you helped create this document?

A. I don't remember creating this part of it.

Q. Do you have an understanding of what the next bullet point, quantitative fair use is contrary to the statutory right of use?

A. I don't know what that means, either.

Q. What about distinction of material by electronic rather than print media is not the decisive issue?

A. I don't know what that means, either.

Q. Do you have an understanding that copyright law makes a distinction between whether an item is in an electronic form rather than print form?

A. I don't know exactly. The Board Of Regents guidelines has additional guidelines for electronic material.

Q. As we sit here today, though, do you have an understanding as to whether copyright law makes a distinction between an electronic version and a print version of a work?

A. I don't know.

Q. The next page of P-130 says, the third bullet point says, all reserve items for a course will be taken down at the conclusion of the course. You see that?

A. Yes.

Q. Is that still true?

A. All the reserve pages are at the end of every semester and in that sense it is true. There can be some permanent reserve materials if it's physical reserves.

Q. And I think you explained that under the new policy professors are no longer allowed to renew their pages?

A. Right.
Q. So if a professor wants to post all the same excerpts for a course and they go through and they fill out the checklist for each item and it doesn't raise any red flags and it gets posted, okay, for fall 2009, what if in the fall of 2010 the professor asks to renew that course page?
A. Currently they would have to fill out the checklist and rerequest all of it again. And in addition to that all the files would not be there for us to see. So when we open the page it would be a blank page. They request what they need and no red flags and we would post it.
Q. But they would have to go through the process of filling out the checklist for every item again?
A. That's my understanding, yes.
MS. SINGER: Would you please mark this as Plaintiffs' 131.
(Plaintiffs' Exhibit No. 131 was marked for identification by the reporter.)
BY MS. SINGER:
Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3393 that's been marked Plaintiffs' Exhibit 131. Appears to be an e-mail

from you to libreserves@langate.gsu.edu dated April 18th, 2008. Do you see that?

A. Yes.

Q. Do you recognize P-131?

A. It looks familiar. I don't specifically know exactly, but it does look familiar.

Q. P-131 is an e-mail chain in which somebody named Amanda I don't know if it's Jungels or Jungels asks the question, she says, I'll be teaching the social course social problems for the first time this summer. I'm a graduate student in the department of sociology. I have a few questions about placing materials on the electronic reserve. I can see online that material from books is limited to 20 percent of the book. In other places I've seen either one chapter or 20 percent of the book.

Do you recall answering Ms. Jungels's question?

A. I don't recall.

Q. What would the answer be? In other words, is the limitation 20 percent or was it at the time one chapter or 20 percent?

A. This is occurring April of 2008 it seems. During that time the 20 percent guideline was in effect.

Q. Was at that time the guideline 20 percent or

was the guideline one chapter or 20 percent?
A. The actual wording in the guideline I believe is one chapter or up to 20 percent to be specific.
Q. Am I understanding then the standard was one chapter or 20 percent, whichever is greater?
A. The standard was one chapter or up to 20 percent.
Q. In P-131 Ms. Jungels goes on to say, do students prefer material to be placed on electronic reserve or in coursepacks.
What is the answer to that question?
A. I don't know the answer to that question.
Q. She says I worry about the cost of the coursepacks since most if not all of it will be copyrighted. But I know I hate to print out dozens of articles every semester. Would it raise a red flag for you to have somebody put on EReserves things that would be copyrighted and cost money if they were part of a coursepack?
A. I don't really deal with coursepacks so I'm going to be unfamiliar with some of that. If the material -- if it was not a coursepack and they submitted the material via our online request form and they did the evaluation, there were no red flags, then it seems to me it would be postable to ERes.

Q. Is it your understanding that when materials are placed in a coursepack students have to pay for them, right? I think we talked about that this morning.

A. Yes, I'm not very familiar with coursepacks so I don't know. I don't know how that works exactly.

Q. I think you told me, though, that when you were a student you remembered purchasing a coursepack?

MS. GARY: Objection. Misquoting the witness.

BY MS. SINGER:

Q. I'm sorry, the record will say what it says. In sum or substance --

A. Go ahead. Sorry.

Q. -- this morning we talked about something with coursepacks when you were a student.

A. Yes.

Q. Did you purchase a coursepack while you were a student at GSU?

A. I don't remember how I got the coursepack. What I remember about this coursepack was that it was a compilation of photocopied material.

Q. That cost money?

A. I don't remember.

Q. Okay. Let me represent to you that coursepacks contain -- well, strike that.

Let's say Ms. Jungels puts together a coursepack of 10 copyrighted excerpts from books and as a coursepack licenses are obtained for each of these 10 excerpts. And when students go to purchase this coursepack they are charged money for the photocopies themselves and for the licensing fees. Okay. You with me so far?

A. Okay.

Q. Now, let's say instead of putting them in a paper coursepack and obtaining licenses, Ms. Jungels takes the exact same 10 excerpts and fills out the checklist for each of them. Each of them pass the fair use check list in her estimation and she sends them to you to post them on EReserves. Do you post them on EReserves?

A. If the material truly met fair use then it would be okay to post material that met fair use.

Q. And how would you determine whether it truly met fair use?

A. The instructor would tell us because they would evaluate it. And if there were no red flags, then we could post it.

Q. Do students pay to access material that's posted on ERes?

A. Not that I know of. No.

MS. SINGER: If you would please mark this as Plaintiffs' 132.

(Plaintiffs' Exhibit No. 132 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you have been handed what's been marked as Plaintiffs' 132. It bears the Bates stamp GSU 1346. It is entitled course reserves introduction to social problems fall 2008. And there's some course numbers on it. It's Professor Amanda M. Jungels. And then it goes on to list, it says all reserves are from Charon, Joel and Lee Garth, vigilant 2009 Social Problems Readings With Four Questions 3rd edition, Belmont, California, Wadsworth Cengage Learning.

And then she goes on to list readings from that book for chapter 8, chapter 19, chapter 22, chapter 23, chapter 26, chapter 27, chapter 31, chapter 32, chapter 33 and chapter 46. Do you see that?

A. Yes.

Q. There's handwriting to the right of all of these chapters. It's some handwritten numbers. Do you recognize that handwriting?

A. No.

Q. The handwriting appears to be a tally of all of the page numbers requested from the book. For example, says Chapter 8, why are people poor in America, pages 93 to 104 and next to it says 12.

A. Yes.

Q. And it adds up to 118 pages. You see that?

A. Yes.

Q. Do you know whether all of these chapter excerpts, this 118 pages was posted to ERes?

MS. GARY: I'm going to object to the relevance of this just because the plaintiffs in this case don't seem to own the copyright to this work.

BY MS. SINGER:

Q. You can answer the question.

A. I don't know.

MS. SINGER: If you would please mark this as Plaintiffs' 133.

(Plaintiffs' Exhibit No. 133 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 488. It's been marked as Plaintiffs' Exhibit 133. Appears to be an e-mail from library reserves to Kim Reimann dated August

2nd, 2005 and your signature block appears at the bottom of that e-mail. Do you see that?

A. Yes.

Q. Now, it looks like from this e-mail chain, and take your time to read it, Professor Reimann is requesting a renewal of her ERes page?

A. Yes.

Q. And you respond to her, and this is 2005 so before the new policy, the files for POLS 4255 have been renewed in ERes. You see that?

A. Yes.

Q. And then you say your page will still need to be reviewed for copyright compliance. If any copyright problems are found you will be notified. You see that?

A. Yes.

Q. If Professor Reimann were to send you this e-mail today, under the new policy would it still be true that the page would need to be renewed -- I'm sorry, reviewed for copyright compliance?

A. If it didn't raise any red flags, then we would not review it.

Q. And I understand and my question understood that you no longer renewed pages. It was assuming she had filled out the checklist for each item.

A. Yes.

MS. SINGER: If you would please mark
this as Plaintiffs' Exhibit 134.

(Plaintiffs' Exhibit No. 134
was marked for identification
by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3417 which has been marked as Plaintiffs' Exhibit 134. It appears to be an e-mail from you to someone named Brian Kooy, K-O-O-Y, dated May 29th, 2007.

Do you recognize P-134?

A. I don't quite remember this.

Q. Do you know who Brian Kooy is?

A. He's a liaison librarian.

Q. And it looks like Brian was forwarding to you a question from a professor named Ben Kelsey. Is that what appears to be happening here?

A. Yes.

Q. And Professor Kelsey writes, I need to put some articles from a book I own on reserve. I read the instructions available on the GSU web site but I want to clarify something. I own a book that is a collection of essays. I want to place on reserve just five pages worth of this book. The book is rather large so I'm definitely not putting more than 20 percent of the book on reserve. However, despite the fact that I am only using five pages, these five pages will include one entire article and snippets from two other articles. Still, I will not, all caps, need to obtain copyright permission, correct?

And your response is we interpret the situation described below as fair use so he should not need to obtain copyright permission. Do you see that?

A. Yes.

Q. Under the current policy would Professor Kelsey need to obtain copyright permission?

A. It would depend on the situation.

Q. What would it depend on?

A. I don't know, I don't know what he's submitting.

Q. Well, if he's submitting five pages that include one entire article and snippets from two other articles.

A. I don't have enough information to answer that question.

Q. What other information would you need to know to answer that question?

A. The articles themselves would help. I might need some more information, too.

Q. What would you do if you had copies of the articles, what would you look for?
A. I would see if it was available electronically in our databases to see if we already pay licensing for them. And in which case we could link to them and the licensing is already paid. So that should work.
Q. Okay. And if you didn't?
A. If we didn't own the articles then I would have to ask someone about this because I wouldn't know what to say.
MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 135.
(Plaintiffs' Exhibit No. 135 was marked for identification by the reporter.)
BY MS. SINGER:
Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3404 to 3405 that's been marked as Plaintiffs' Exhibit 135. It's an e-mail from you to libreserves@langate.gsu.edu dated June 20th, 2008.
Libreserves@langate.gsu.edu, is that the reserves e-mail address that you and all the reserves staff check?
A. The library reserves at langate.gsu.edu?

Q. Yes.

A. Yes.

Q. And I apologize if I butchered the pronunciation on that one.

P-135 appears to be an e-mail chain involving Professor Smolinski and Jim Palmour that reflects Professor Smolinski on 4/17/2008, sometime ago you were so kind as to put PDF files of one of my out of print books online/reserve books from my English class. I have another book that has since gone out of print and would very much like to do the same.

And Jim Palmour responds to him, the best way to proceed would be to take the original book to library media services circulation desk at the main entrance to library south and ask for Denise Dimsdale or Malia Cargile.

You see that?

A. Yes.

Q. Okay. And then Professor Smolinski replies, I gave Denise/Malia a copy of my "Threefold Paradise Of Cotton Mather" 1995. Can you let me know when this book is ready to be posted on the Internet.

And then Jim writes presumably to you, okay, I'll remind her about it. I'll be out next week.

Was indeed the entire out of print book posted on EReserves?

A. I remember this situation a little bit and I'm not a hundred percent positive that this was, though I think it was.

Q. Under the new policy if you received a request to post an entire out of print book, what would you do with it?

A. I would ask for help from legal affairs. Which if this is the title that I'm thinking of in my mind I did in this case as well.

MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 136.

(Plaintiffs' Exhibit No. 136 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 34211 that's been marked as Plaintiffs' Exhibit 136. It appears to be an e-mail from you to Casey Long dated July 9th, 2008 with the subject re Marta White.

Who is Casey Long?

A. She's a liaison librarian.

Q. Do you know who Marta White is?

A. She's an instructor. I don't remember what she teaches.

Q. In this e-mail chain Casey Long writes to you, I want to make sure the resources we placed on electronic reserve for Marta White's class in the spring will be available in the fall. Do you still have electronic copies of these resources. And you respond items remain in -- I'm sorry, items in ERes remain forever. Do you see that?

A. Yes.

Q. Is that still true as we sit here today?

A. Well, I think I'm not allowed to delete it from the system at this point in time because we're under litigation. So I don't know what the future of that is at this point.

Q. Casey Long also writes to you, also would you be willing to talk about what you know about copyright and reserves at a liaison meeting. What I would like to do is survey the department to see what kind of questions they have had on these issues and then forward them to you and have you address them in an upcoming meeting.

Do you see that? It's the bottom paragraph of P-136.

A. Yes.

Q. And then your response to Casey is I can talk to you and the liaisons about copyright as it relates to our ERes procedures if you would like. Do you see that? It's the last paragraph of your e-mail.

A. Yes.

Q. Did you in fact talk to the liaisons about copyright as it relates to ERes procedures?

A. No, I did not.

Q. Why?

A. Following -- I remember this conversation. I did talk to Casey and I wanted her to clarify what kind of information they were seeking. And I told her it would be better if -- I mean, I can tell them, you know, what we do, but if the kind of information that they're seeking requires legal advice, then I'm not the person to talk to. So they should talk with legal affairs.

Q. Do you know whether they in fact did talk to legal affairs?

A. I don't know.

Q. Did you ever receive clarification about the kinds of information they were looking for?

A. I don't remember specifically all the things we talked about.

Q. Have you ever had conversations with the liaisons about copyright?

A. The subject of copyright has probably come up in a conversation. I don't remember any specifics at the moment.

Q. Would that conversation have been since the new policy was in effect?

A. I don't remember anything since the new policy was in effect.

MS. SINGER: Would you please mark this as Plaintiffs' 137.

(Plaintiffs' Exhibit No. 137 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Mrs. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3420 that's been marked as Plaintiffs' Exhibit 137. That appears to be an e-mail from you to Wade Danis, D-A-N-I-S, dated August 27th, 2007, subject re IB 8180 electronic reserves.

Do you see that?

A. Yes.

Q. Who is Wade Danis?

A. He's an instructor.

Q. Professor Danis writes to you, I left you a phone message about three chapters I had requested to be put on electronic reserves. And he says, is there any way these readings can be posted today. Sorry for the rush but I only found out last Monday about a problem at the bookstore which necessitated this solution.

Do you see that?

A. Yes.

Q. And then you write back to him, we will have your material posted by 3:00 today. Do you see that?

A. Yes.

Q. So it looks like you posted the three chapters that he requested to EReserves, either you or Malia?

A. I don't know what the material was. It looks as though I'm responding that we're going to do it. It looks like we're going to do it.

Q. If that request came in today under the new policy requesting to post three chapters, would it be posted on EReserves?

A. It would depend on the situation.

Q. What would it depend on?

A. The instructor would have to evaluate the material for fair use and submit an online request form. And provided that the material didn't raise any red flags, then we would post the material.

Q. Under the new policy, are there any practices or procedures that you use in the event of emergencies where a professor wants something posted immediately?

A. No, not that I know of.

Q. Do you accept requests by e-mail to post things to EReserves?

A. Currently if it's an electronic item they would need to submit the online request form which comes via e-mail, but not in letter form.

Q. Are there any exceptions to professors sending -- submitting the online form?

A. Currently I know of no exceptions.

Q. If a professor wanted to expedite the posting, how would he or she go about doing that currently?

A. They should submit it in a timely manner.

Q. Do you know what the deadline is for submitting requests, submitting timely requests for EReserves for fall 2009?

A. I don't have a deadline set yet.

Q. Do you know approximately what that deadline will be?

A. Usually we try to pick a date that's about a month before the semester starts.

Q. When does fall semester start approximately?

A. I'm not sure. That's probably why I haven't set a date yet.

Q. Likely the deadline will be sometime in July or August?

A. I think so. I think so.
Q. Do you have any plans to set the deadline earlier because of the new policy?
A. Not currently.
MS. SINGER: Would you please mark this as Plaintiffs' 138.
(Plaintiffs' Exhibit No. 138 was marked for identification by the reporter.)
BY MS. SINGER:
Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 3394 that has been marked as Plaintiffs' Exhibit 138. It appears to be an e-mail from you to libreserves@langate.gsu.edu dated January 23rd, 2007, with the subject forward folk reserves additions. And it appears to be forwarding an e-mail from John Burrison to you.
And he says, hi, Denise, wonder if you could add the following pages to my electronic reserves. And he lists an excerpt from J. L. Herring, Saturday Night Sketches, and an excerpt from Myles Dillon, Irish Sagas, currently on hard reserves. Do you see that?
A. Yes.
Q. One of the excerpts from the Dillon book is a request for pages 9 to 78 and 93 to 147. Do you see

that?

A. Yes.

Q. And he, Professor Burrison explains, I wanted to use the Herring book as a course text but was only recently notified by the bookstore it's out of print. These two brief chapters will be useful to help students prepare for exam number 2.

Do you see that?

A. Yes.

Q. Do you know whether these pages were added to his electronic reserves?

A. I don't remember specifically.

Q. Do you have any reason to believe that they weren't?

A. I don't think I have enough information to answer your question.

Q. Okay. Then Professor Burison writes, as for the Dillon book I'm discovering that I can no longer depend on students to access a single hard copy of the book on reserve and wanted to make it easier for them to read these chapters. Do you see that?

A. Yes.

Q. Do you have any understanding of what he meant by not being able to depend on students to access a single hard copy of the book?

A. No.
Q. Do you keep any statistics on access to print reserves?
A. I don't have a file of them that I'm aware of.
Q. Do you have any understanding of whether the number of students accessing print reserves has increased or decreased over the last five years?
A. I don't know.
Q. Do you have any sense of whether that number would increase or decrease?
A. Not really.
Q. Do you have any sense of whether the number of items placed on print reserves has increased or decreased in the last five years?
A. Not at the moment.
Q. What would you do to get an answer to that question?
A. I don't know if I can. There may be a way, but I don't know what it is.
MS. SINGER: If you would please mark this as Plaintiffs' Exhibit 139.
(Plaintiffs' Exhibit No. 139 was marked for identification by the reporter.)
BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing Bates stamp Georgia State 5400 to 5401 that has been marked as Plaintiffs' Exhibit 139. And it appears to be an e-mail from Corey Schlotzhauer to reserves at the library dated September 8, 2008, with the subject forward re reading for H8252 attached, ERes info taken care of already. Do you see that?

A. Yes.

Q. P-139 appears to be an e-mail between Joe Perry, Professor Joe Perry and Corey Schlotzhauer regarding some EReserves?

A. Yes.

Q. And it appears that Joe Perry writes to Corey on September 5th, 2008, hi Corey, I did not hear from you so I guess this is okay. If this is a hassle just say so and I'll go through the normal channels. Otherwise let me know the system works. These books are for H8252 EReserves.

And then he sends a list of items that presumably he wants included on EReserves. Do you see that?

A. Yes.

Q. Do you have an understanding of what he means when he says I guess this is okay otherwise -- if it's a hassle I'll go through the normal channels?

A. I don't know.
Q. You see where Corey Schlotzhauer writes back to Dr. Perry, he says it is fine if you want to continue sending the requests to me. I'll put them up as soon as I can each week.
Do you see that? Looks like it's the second e-mail in the chain.
A. I don't see it.
Q. It's about a third of the way down on the first page of P-139. Never mind, strike that.
At the top of P-139 professor Perry writes to Corey, he says, the second line, I actually own the journal with the first article. I'll make and forward a PDF of that file sometime later. Do you see that?
A. Yes.
Q. Under the current policy would you post a PDF file of an article on EReserves sent by a professor?
A. I would have to ask about that. Currently we would do links to journal articles that we license, but if it's a PDF of a journal article I would have to ask about that.
MS. SINGER: If you would please mark this as Plaintiffs' 140.
(Plaintiffs' Exhibit No. 140 was marked for identification

by the reporter.)

BY MS. SINGER:

Q. You have been handed a document bearing the Bates stamp Georgia State 3395 that has been marked as Plaintiffs' Exhibit 140. It appears to be an e-mail from you to libreserves@langare.gus.edu dated January 9th, 2007. The subject forward question.

Do you see that?

A. Yes.

Q. The question appears to be from Marian Meyers. Do you know who Marian Meyers is?

A. I know she's an instructor.

Q. Marian Meyers writes, hi Jason. Do you know who Jason is?

A. He's no longer employed with Georgia State University, but he was a liaison librarian.

Q. And Professor Myers writes to Jason, I'm teaching a new course this year, a doctoral level course on feminist media studies and I want to put a number of articles on reserves. However, there are multiple articles from the same book in a number of instances. If this a copyright problem and if it is how do we get around it. Thanks for your assistance.

Do you see that?

A. Yes.

Q. And Jason looks like he forwarded it to you, says Denise, can you respond to Marian's request below per EReserves and copyright issues. Do you see that?
A. Yes.
Q. What was your response?
A. I don't remember.
Q. If this question arose today, if you received this e-mail today, a professor wanting to post multiple articles from the same book, do you believe it would be a copyright problem under the current policy?
A. It would -- it would depend on the situation.
Q. What would it depend on?
A. It would depend on the material itself, which the teacher would evaluate.
Q. What do you mean by that?
A. The teacher has several options. They can evaluate whether or not it meets fair use. We could see if we license the electronic version of the book already. They could pay for licensing. They could discuss any questions with legal affairs. They have other options as well.
Q. If Professor Meyers were to submit an online form listing multiple articles or chapters from the same book presumably having filled out the fair use checklist and finding each of these to be fair use, what would you

do?

A. If we received this request via our online request form --

Q. Today.

A. Today. If it seemed like a lot of material then we would question it. If it seemed like -- if it didn't raise any red flags, then we would post it.

Q. What would you consider to be a lot of material?

A. I thought we answered that already.

Q. In this instance what would you consider to be a lot?

A. I don't know what this instance is specifically. If I saw -- she's saying multiple articles, so I don't know what multiple means. And I don't know what material she's talking about either. So I don't know enough information to answer the question.

Q. What other information would you need to answer the question?

A. The material itself would be helpful.

Q. When a professor submits an online request through the EReserve system, do you actually see the material?

A. We would see -- well, we have to have the material before we can post it some way, so at some point we would see the material.

Q. Would the red flag be raised at the point the professor is making the request or at the point when the material was actually being posted to the page?

A. It could be either or both.

MS. SINGER: Well, we need to change the tape, so it's probably a good time to take another short break.

THE VIDEOGRAPHER: Off the record at 3:16:16.

(Brief recess.)

THE VIDEOGRAPHER: This is tape 6. We're back on the record at 3:26:41.

BY MS. SINGER:

Q. Ms. Dimsdale, are you familiar with the phrase multiple copies for classroom use?

A. I've heard that phrase.

Q. What do you -- what's your understanding of what that phrase means?

A. Making multiple copies to use in the classroom possibly.

Q. Do you consider posting an item on EReserves to be making multiple copies for classroom use?

A. I think I would need to scan it more than once. I should just say I don't know because I don't think I can answer that one.

Q. Do you or does anyone else in the library that you're aware of make any recommendations as to whether materials should be made available through the EReserve system as opposed to any other system?

A. Not that I know of. If someone wants certain things that one system offers over the other then someone might mention that one system is recommended over another for a certain instance. It's -- I don't think it's anyone's job to do that.

Q. Could you give me an example of a situation in which it might be appropriate to recommend or -- strike that.

Can you give me examples of a situation in which someone might recommend one system over another?

A. If an instructor wanted access to create their own online course. You can't really do that in ERes, so I would not recommend our software for that. And there is software available in ULearn for that.

Q. Can professors post course reading to ULearn?

A. I don't know much about ULearn. To the best of my knowledge it is technologically possible to post material to ULearn.

Q. Do you have any general understanding of whether or not GSU professors are able to post course reading material to the ULearn system?

A. To the best of my knowledge instructors are allowed to create their own ULearn pages in which case they would be posting to them.

Q. If a professor posted something to their ULearn page, would the library have any involvement with the posting of that item to ULearn?

A. No.

Q. Do you know whether anybody would do any review for copyright compliance before a professor was able to post an item to their ULearn page?

A. I really don't do ULearn so I don't know.

Q. Who would you ask if wanted to know the answer to that question?

A. There's some information online about how to contact them, so I'd look that up.

Q. Do you specifically have a person that you talk to about ULearn when you have ULearn questions?

A. A good while ago I used to talk to Zoe someone, but I don't even know if she still works there. I haven't talked to her in a while. Yeah, I don't know currently who it might be.

Q. Are you aware that GSU students pay a mandatory fee?

MS. GARY: Objection. Vague.

THE WITNESS: Yeah, they have lots of mandatory fees.

BY MS. SINGER:

Q. Are you aware that GSU students pay a mandatory library fee of for spring 2009 approximately $35?

A. I don't know what the fees are exactly.

Q. When you were a student at GSU do you recall whether you paid a library fee?

A. I don't recall.

Q. Do you recall whether you paid an athletic fee?

A. I don't recall.

Q. Would it surprise you to learn that the GSU web site explains that the athletic fee for spring 2009 is $227 and the library fee was $35?

A. How do I feel about that, I don't feel surprised.

Q. How do you feel about that?

A. Indifferent.

Q. Do you know how much GSU students generally spend on books per semester?

A. No.

Q. How many courses do GSU students generally take each semester?

A. I don't know.
Q. When you were a student at GSU how many courses approximately did you take per semester?
A. As a graduate student I believe I took approximately six hours.
Q. And as an undergrad?
A. I don't remember.
Q. Are you familiar with the Copyright Clearance Center?
A. Yes. Well, I'm not familiar with it, but I've heard of it.
Q. What's your understanding of what the Copyright Clearance Center is?
A. You can go to the web site and there's the opportunity there to search for materials. And I think you might able to pay royalties there as well.
Q. Have you ever had occasion to search the web site, the Copyright Clearance Center web site?
A. Not that I know of.
Q. What is your familiarity with the Copyright Clearance Center based on?
A. I have -- I think I've probably referred people to the site. There's also -- I believe that one of the things in ERes, the copyright options links into I believe it's the Copyright Clearance Center that it

links into.
Q. Do you use that option in ERes?
A. No.
Q. Why not?
A. I don't know.
Q. Have there -- have there ever been any discussions about using that feature in ERes?
A. I don't remember. I think part of -- there was at least a little bit of discussion -- I don't know exactly, but there was something about if the instructor has -- there's some kind of software thing. The instructor needs some kind of administrator access in order to also access that as well.
Q. Does that have any bearing on why or why not you decided not to use that option? Strike that question. I'm sorry, that was -- got a little lost there.
Who on the reserve staff communicated directly with professors about whether or not their request can be posted on EReserves?
A. Anyone who has access to the EReserves e-mail could e-mail a professor.
Q. Anyone else?
A. Well, I guess anyone at any point can e-mail a professor any time they want.

Q. Specifically about ERes, though?
A. The people whose job it is to e-mail professors about ERes would be the reserve staff and I guess any of our superiors. I don't know about other people's jobs.
Q. Would Kelly ever talk to professors?
A. She shouldn't. I mean, I would not make that part of her job description.
Q. Why not?
A. It's -- well, she's very temporary for one thing. In fact I think today might be her last day. It's -- we haven't really -- I don't think she knows any of our policies or procedures. So she's not very knowledgeable of what we do.
Q. Are professors generally receptive when you explain to them that you're not going to post something they've requested?
A. Well, they want to know why. But sometimes they are receptive. Usually we offer some options for them to think about.
Q. Do professors ever give you a hard time when you tell them that the library is not going to post something to ERes?
A. I can't remember a specific instance right now, but there's probably been an instance.

MS. SINGER: If you would please mark this as Plaintiffs' 141.

(Plaintiffs' Exhibit No. 141 was marked for identification by the reporter.)

BY MS. SINGER:

Q. Ms. Dimsdale, you've been handed a document bearing the Bates stamp Georgia State 470 that has been marked as Plaintiffs' Exhibit 141. It appears to be an e-mail from you to Laura -- to lburtle@gsu.edu, which I'm assuming is Laura Burtle, correct?

A. Yes.

Q. Dated 2/23/27 and the subject is password issues.

And in the second paragraph you note, thus anyone in the world has access to all of our online ERes material and you don't have to be real bright to figure out how to get in.

Do you see that? It's under issue 1.

A. Yes.

Q. What did you mean by that?

A. There was a problem, a software glitch in our system where the page -- how did you get in. There was a way to get in without the password, which was a software glitch. So the page was actually password protected but in certain instances it was not requiring that password.

Q. Am I understanding you to be saying that somebody who did not have a password could have access to the course materials that were posted on an ERes page during that period?

A. Yes.

Q. Do you know approximately how long that period lasted?

A. Don't remember.

Q. How did you come to discover the software glitch?

A. I don't remember precisely how we figured that out.

Q. Do you know how long the software glitch had been going on by the time you discovered it?

A. No.

Q. Is there any way to know that, to answer that question?

A. My understanding of the software glitch is that it had to do with listing something -- linking to WebCT as a trusted site. That's my understanding of the situation. And when they got rid of that listing as a trusted site then the password glitch problem went away.

Q. What is WebCT?

A. It's an online classroom software.

Q. Is WebCT related to ULearn?

A. I think they're part of -- it's part of ULearn. I don't know what -- that's not what I do, so I don't know what they call all of their stuff. By the time I think we didn't say ULearn at all, we just said WebCT. Now I don't know what they use over there, if it's Blackboard, WebCT, I don't know what it is.

Q. How did you come to be looking at password issues in February 2007?

A. At some point we discovered this problem and we needed to figure out how to fix it or we needed to do something about it.

Q. Okay. Issue number 2 in P-141 says WebCT link issues may be remedied by editing the persistent URL in WebCT with the one currently listed in ERes after our upgrade last Monday. What does that mean?

A. I don't remember what this means at all.

Q. Okay. Later on in the issue 2 in P-141 you say, the problem with the current persistent URL in ERes is once you access ERez once with your password, you can copy that URL and place it anywhere in the world to give anyone in the world access to ERes without a password. The persistent URL bypasses the password requirement. I tried this on my home computer and it works great with

both IE and Mozilla. Too bad for copyright.
What does that mean?
A. It looks like you can save a persistent URL to your desktop and link directly to the item without entering a password. Which is bad.
MS. SINGER: I have no further questions.
MS. GARY: I have just a few clarifying questions.

EXAMINATION

BY MS. GARY:
Q. If you could, Ms. Dimsdale, pull out Plaintiffs' 125 through 127. Probably at the bottom of that pile.
And let's start with Plaintiffs' 125. If you could flip to the second page of that, underneath page authors it appears to have a revised date. What is that?
A. November 10th, 2005. That's what it says.
Q. So is it your understanding that this document would have been created and revised before the new copyright policy?
A. It appears -- let's see. From the document itself, I would have to read the whole thing to figure that out, this looks like this software is automatically

telling you to update and it has not been updated since November 10th is what it says.

Q. And then on Plaintiffs' 126, just look at the second page again at the revised date. What date does that give?

A. April 21st, 2008.

Q. Okay. And that would be before the adoption of the new copyright policy?

A. The new copyright policy went into effect in 2009, so yes.

Q. Okay. And then one more time on Plaintiffs' 127, flip to the third page. And underneath page authors, what is the revised date on that?

A. August 16th, 2007.

Q. Okay. And that was -- so it would have been revised before the adoption --

A. Yes.

Q. -- of the new copyright policy.

Is it your understanding that a faculty member or a student currently looking for information on electronic reserves, would they be directed to these pages? Are these the current pages?

A. The current pages reflect the new policy. If you click from the library home page into reserves it takes you to -- I don't know the URL, but it takes you to the new information. So that's the information that we've been given.

MS. GARY: Thank you. I have no more questions.

THE VIDEOGRAPHER: That concludes the deposition. We're off the record at 3:47:08.

(Deposition concluded at 3:47 p.m.)

E R R A T A   S H E E T

I, the undersigned, Marjorie Denise Dimsdale, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below).

PAGE / LINE CORRECTION

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NOTARY PUBLIC   SIGNATURE

DATE--------------

MY COMMISSION EXPIRES:

C E R T I F I C A T E

G E O R G I A:

FULTON COUNTY:

I hereby certify that the foregoing deposition was taken down, as stated in the caption, and the questions and the answers thereto were reduced to printing under my direction; that the preceding pages represent a true and correct transcript, to the best of my ability, of the evidence given by said witness upon said hearing. And I further certify that I am not of kin or counsel to the parties to the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 19th day of May, 2009.

Teresa Bishop, RPR, RMR

CCR No. B-307

My commission expires 11-21-11.

DISCLOSURE

STATE OF GEORGIA
COUNTY OF DEKALB

Deposition of Marjorie Denise Dimsdale

Pursuant to Article 10.B of the Rules and Regulations of the Board of court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Shugart & Bishop.

I am not disqualified for a relationship of interest under the provisions of O.C.G.A. 9-11-28.

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Teresa Bishop
RPR, RMR, CCR B-307